



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310
SANTA CRUZ, CA 95060

TELEPHONE: (831) 454-2600
FAX: (831) 454-2411
TDD: (831) 454-2123

DATE: April 2, 2010

TO: Civil Service Commission

FROM: Laurie Hill, Staff to the Commission *LH*
Ajita Patel, Personnel Deputy Director *Aj Patel*

SUBJECT: SUMMARY OF COMMISSION RESPONSE TO COMPLAINTS ABOUT THE WHISTLEBLOWER PROGRAM

At the Commission's January 2010 regularly scheduled meeting, representatives from Service Employees International Union (SEIU) asked that the Commission add a future goal to their 2009 Annual Report for the Board of Supervisors. SEIU asked the Commission to include continued review of the County's Whistleblower Program. Your Commission asked that this item be placed on the April 15, 2010 agenda to provide background to the new Commissioners.

BACKGROUND:

The Whistleblower Program, established by the Board of Supervisor in January 2005, is managed by the Office of the Auditor Controller and its description is contained the County's Policies and Procedures Manual. The Auditor Controller provides an annual update to the Board regarding whistleblower activity.

In April 2007, SEIU's initial concerns regarding the Whistleblower Program surfaced in a letter regarding their survey of personnel practices. They asked the Commission for "strong whistleblower protection" because of "widespread fear of reprisal in the workplace" that discouraged employees from reporting problems and making suggestions for improvement in personnel practices. The letter cited a list of concerns and included a story from an employee that her whistleblower complaint was reported directly to her department.

At your April 19, 2007 meeting SEIU presented a letter titled "Working Group on Civil Service Reform." SEIU recommended that the Commission "adopt independent oversight, transparency, and strong whistleblower standards" to include independent staff, a presence on the internet, allow direct contact to commissioners and to establish a Whistleblower Program with confidential investigative authority. Lastly, SEIU recommended that the Civil Service Commission employ and direct staff independent of the Personnel Department or use another County Department such as the Clerk of the Board as their staff. During discussions they asked the Commission to form a

working group on civil service reform. When Chair Barsi asked for specifics, the SEIU representative offered to present her concerns to him in confidence. Staff offered that Commissioners could meet individually with parties, but could not take any action independent from the Commission. Any proposed action would need to be placed on the agenda for a future meeting. The parties agreed to place this item on the July 19, 2007 agenda.

July 19, 2007, the Commission considered SEIU's request to address Civil Service oversight, job specifications, job reclassification, and the Whistleblower Hotline. An Ad Hoc Committee was formed (Commissioners Barsi and Taren) that agreed to review the allegations and report back to the full Commission in October.

October 18, 2007, Commissioners Barsi and Taren were absent and Kontz reported that the Ad Hoc Committee had not met, citing concerns regarding the Brown Act.

At this meeting, Deputy Director, Ajita Patel, and Health Services Agency Administrator, Rama Kalsa, provided written responses to several personnel issues that were raised at the July 2007 Civil Service meeting.

January 17, 2008, the Ad Hoc Committee reported that they shared SEIU's concerns regarding Whistleblower confidentiality, and they saw ways to improve the Civil Service Commission website. Most importantly, the Commissioners discussed the role of the Ad Hoc Committee. Commission Attorney Thornton Kontz stated that the Brown Act requirements prevented the Ad Hoc Committee from guaranteeing confidentiality. Ultimately, the Commissioners agreed that the charter of the Commission in conjunction with their Brown Act requirements prevented them from serving as investigators. The Commissioners agreed to write the Board of Supervisors with some recommendations for a separate forum so that confidential matters could be reported.

February 14, 2008, SEIU submitted a letter in response the Personnel/HSA joint memo, stating that the memo did not respond to the need for a protected, confidential avenue for County employees to report illegal, unethical, or otherwise improper activities in county government without fear of reprisal. Further, they asked the Commission to "overhaul the Whistleblower program to provide a safe, effective channel for employees to report wrong doing within the county system."

March 2008, Commission received a written suggestion that there should be a "Commission Hotline", and that the County should adopt special protections for whistleblowers. Another letter, dated April 12, 2008 suggested a Whistleblower program independent of County government.

April 17, 2008, Commissioner Taren submitted a report on behalf of the Ad Hoc Committee and asked the Commission to direct staff to contact other counties to determine how their Whistleblower programs worked.

In the July 2008 the Grand Jury report provided an initial report, "Handpicked for a job?" SEIU had filed a complaint on November 16, 2007. The Grand Jury recommended the following regarding the Whistleblower Program:

- The County's website search function should be updated so that typing the keyword "whistleblower" results in a path to the hotline information

- All employees complaining to the Whistleblower Program should receive full disclosure regarding the details of the resolution process for their particular complaint. Specifically, they should be told that their complaint will be forwarded to a department head for action.
- Preliminary results of whistleblower complaints should be required within 60 days of the original complaint.
- The Board of Supervisors is encouraged to create a body independent of County government to serve as the first point of contact for all whistleblower complaints; and from there they can be forwarded to the appropriate entity for investigation and resolution.

The Grand Jury also recommended that the Commission permanently create a standing committee consisting of two commissioners to hear and investigate personnel and hiring practice complaints. Upon conclusion of each investigation, they recommended that this committee should report its findings and recommendations to the full commission.

The Commission's response to the Grand Jury was due September 1, 2010.

July 15, 2008, SEIU asked to defer the response until after a Special Meeting in September in which "all stakeholders would have the opportunity to participate in the development of solutions."

July 17, 2008, the Commission considered the Grand Jury report and directed staff to respond. The Commission also asked staff to survey other counties as to how they handled Whistleblower complaints.

The final Grand Jury report included the County's responses. A complete report is attached. Specific relevant parts applicable to your discussion at the next meeting are as follows:

1. The Civil Service Commission should permanently create a standing committee consisting of two commissioners to hear and investigate personnel and hiring practice complaints. Upon conclusion of each of its investigations, this committee should report its findings and recommendations to the full commission.

Response from both the County and from the Civil Service Commission: WILL NOT BE IMPLEMENTED.

In 2007 the Civil Service Commission created a temporary ad hoc committee, consisting of two commissioners, to hear complaints from SEIU members.

The Brown Act (Government Code Section 54952), County Code (2.46.060), and Civil Service rules (Section 130 I. 1. A.) restrict the Civil Service Commission's ability to create a standing committee and still maintain a confidential forum for county employee complaints.

The meetings of a standing committee composed of less than a quorum of the commission would be subject to the notice, agenda, and public participation requirements of the Ralph M. Brown Act. It is not possible under the Brown Act to set up a permanent standing committee that could accomplish a confidential forum for complaints of County employees.

Whistleblower Program

2. The County website's search function should be updated so that typing in the keyword "whistleblower" results in a path to the hotline information.

Response from the County/Auditor Controller: HAS BEEN IMPLEMENTED.

Script
popup

3. Effective immediately, all employees complaining to the whistleblower program should receive full disclosure regarding the details of the resolution process for their particular complaint. Specifically, they should be told if their complaint will be forwarded to a department head for action.

Response from the County/Auditor Controller: HAS NOT YET BEEN IMPLEMENTED, BUT WILL BE IMPLEMENTED IN THE FUTURE.

Changes have been made to the information provided to employees who telephone the hotline and speak to a staff person. Changes are in the process of being made to the English and Spanish versions of the voicemail and website information. Changes will be implemented by November 30, 2008.

4. Preliminary results of whistleblower investigations should be required within 60 days of the original complaint.

Response from the County/Auditor Controller: HAS BEEN IMPLEMENTED.

This requirement is in effect for reports received after August 15, 2008.

5. The Board of Supervisors is encouraged to create a body independent of county government to serve as the first point of contact for all whistleblower complaints; from there they can be forwarded to the appropriate entity for investigation and resolution.

Response from the County: REQUIRES FURTHER ANALYSIS.

The Auditor-Controller will review suggestions for modifying the Whistleblower Hotline and will make appropriate recommendations to the Board.

September 2008, in response to the Grand Jury report, the Auditor Controller submitted a report to the Board regarding the status of the Whistleblower Hotline. The report provided the results of a statewide survey of County's Whistleblower Programs, a flowchart on the decision process in responding to hotline reports, the original program as presented to the Board in 2004, and copies of the annual summary reports forwarded to the appropriate Department Head for resolution.

November 20, 2008 (meeting continued to this date due to lack of quorum), the Commission reviewed both the Auditor's response to the Grand Jury and the staff report regarding how other Counties handle whistleblower complaints. Staff referenced the report submitted to the Board of Supervisors by the Auditor Controller's office. Seven of the eight "comparable" counties did not have a whistleblower hotline. The staff report (attachments VI. B. and C.) also noted that 42 of the 57 counties did not have a whistleblower hotline and of the ten counties that did have a hotline, only two had separate bodies that reviewed complaints. The Commission directed staff to prepare a draft letter for the Board regarding their interest in independent oversight for whistleblower complaints.

January 15, 2009, the Commission approved the draft letter to the Board, stating that the work of the Ad Hoc Committee was complete and recommending that the Board revisit the Grand Jury recommendation to establish a body independent of county government to 1) serve as the first point of contact for whistleblower complaints, and 2) screen and forward complaints to the appropriate entity for investigation and resolution.

January 30, 2009, the Board responded, thanking the Commission, and citing that the Board approved changes to the Whistleblower program in September 2008 and invited the Commission to contact the Board again in September 2009 to provide an update on the effectiveness of these changes. The Board suggested that, based on the Commission's findings at the time, that it may be appropriate to explore options of an independent body to investigate complaints to the whistleblower hotline. The Commission received the Board response at their April 16, 2009

regular meeting.

October 20, 2009, SEIU staff and a member submitted letters calling the County's Whistleblower Program a conflict of interest when the County itself oversees the program designed to "root out potential wrongdoing within the County".

November 6, 2009, Personnel Director, Michael J. McDougall, responded to Chair Coonerty regarding SEIU's October 20, 2009 letter, citing that SEIU had presented no evidence of conflicts of interest, reviewed the nepotism policy again, and provided data reflecting that five of the Civil Service Commissions in our comparable Counties are staffed by Personnel/Human Resources staff.

March 2010, the Auditor Controller submitted their 2009 annual hotline report to the Board. The report summarizes the 31 hotline contacts/reports, including 10 personnel related matters.

DISCUSSION:

Having heard no evidence as to any problems with regards to the administration of this program over the last year, and in consideration of the changes implemented by the Auditor Controller in late 2008, staff recommends that the Commission take no further action at this time. Rather, the Commission should await any further developments that may surface at their upcoming meetings prior to making further recommendations to the Board regarding the Board's program. In the event that evidence is presented in the future that influences the Commission to consider recommending new changes to the Board, staff would request that any proposed recommendations to the Board first be placed on the Commission's future agenda for review and input by the Personnel Department, other County staff, SEIU, other bargaining units and the public.

Additionally, it should be noted that Personnel Department staff also offers to employees several appeal processes in addition to the Whistleblower Hotline, a few of which include Grievances, EEO complaints, Disciplinary Appeals, and proposed reclassification actions. The Civil Service Rules and the applicable memorandums of understanding define these processes for the various bargaining units. Lastly, the employees also have the ability to file complaints with the Department of Fair Employment and Housing and the federal agency Equal Employment Opportunity Commission if they prefer to use venues outside of the County. A copy of the Board Item dated September 9, 2008, depicting a few of these processes, is attached for your review.

RECOMMENDATIONS:

- 1) **Accept and file this report, the attached historical material with regards to the Commission's review of the Whistleblower Hotline, and the 2009 Whistleblower Annual Report as submitted.**
- 2) **Take no further action in this matter at this time.**

SUMMARY OF COMMISSION RESPONSE TO COMPLAINTS
ABOUT THE WHISTLEBLOWER PROGRAM

ATTACHMENTS

- April 4, 2007: Letter to CSC from SEIU regarding "SEIU 521 Survey of County Personnel Practices"
- April 19, 2007: Letter to CSC from SEIU entitled "Working Group on Civil Service Reform"
- October 16, 2007: Memo to CSC from Ajita and Rama regarding "concerns regarding personnel processes", with item on the Whistle Blower program.
- October 18, 2007: CSC agenda minutes with ad hoc committee report on the Whistle Blower program
- January 17, 2008: CSC agenda minutes with ad hoc committee report on the Whistle Blower program.
- February 14, 2008: Letter to CSC from SEIU discussing confidential information in the Whistle Blower program.
- March 7, 2008: Letter to CSC members Taren and Barsi from Pruitt Tully discussing a CSC hotline vs. the Whistle Blower program.
- April 21, 2008: Letter to CSC from Morgan Koch, with Grand Jury attachment, discussing the Whistle Blower program. (Page 12 of G.J. report)
- July 8, 2008: Copy of the City of Oakland's Whistle Blower program.
- July 15, 2008: Letter to CSC from SEIU regarding Grand Jury Report on the Whistle Blower program.
- July 17, 2008: CSC agenda with item under Old Business regarding ad hoc committee, Whistle Blower program.
- September 9, 2009: Letter to BOS from the CAO, with discussion of the Whistle Blower statistics.
- October 16, 2008: CSC agenda with item on the Whistle Blower hotline and complaints.
- September 11, 2008: Letter to the BOS from the CAO regarding responses and recommendations to the Grand Jury report.
- January 15, 2009: CSC agenda item to discuss draft letter from CSC to the BOS on the Whistle Blower program.
- January 22, 2009: Letter to the BOS from Neal Coonerty regarding the 07-08 Grand Jury Report and an item on the Whistle Blower program.
- April 16, 2009: CSC agenda item on correspondence from CSC to the BOS on the Whistle Blower program.
- July 16, 2009: Letter to CSC of a verbal presentation to the CSC from Morgan Koch on the Whistle Blower program.
- July 16, 2009: CSC agenda item with discussion regarding letter from Morgan Koch on the Whistle Blower program.
- October 20, 2009: SEIU's letter titled, "Important Issues Pending Before the Civil Service Commission."
- November 6, 2009: Letter from Personnel Director to Chair Coonerty regarding SEIU's October 20, 2009 letter.
- February 17, 2010: Letter to the BOS from the CAO providing statistical information on the Whistle Blower program for the year of 2009.



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COUNTY OF SANTA CRUZ

MARY JO WALKER, AUDITOR-CONTROLLER
701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073
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Edith Driscoll, Chief Deputy Auditor-Controller
Pam Silbaugh, General Accounting Manager
Mark Huett, Audit and Systems Manager
Marianne Ellis, Property Tax Accounting Manager

**APPROVED AND FILED
BOARD OF SUPERVISORS**

DATE: *March 2, 2010*

COUNTY OF SANTA CRUZ

SUSAN A. MAURIELLO

EX-OFFICIO CLERK OF THE BOARD

AGENDA: MARCH 2, 2010

February 17, 2010 BY *Sharon Mitchell* DEPUTY

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: WHISTLEBLOWER HOTLINE ANNUAL REPORT

Dear Members of the Board:

Pursuant to the Santa Cruz County Policies and Procedures Manual section VII 700, the attached schedule provides statistical information on the 2009 calendar year Whistleblower Hotline activity and summarizes the Hotline reports received during the year.

The Whistleblower Hotline is intended for Santa Cruz County residents, vendors, contractors and employees to report allegations of fraud, waste and abuse, including fraudulent activity by Santa Cruz County government employees; misuse of County resources by vendors, contractors or County employees; or significant violations of County policy.

To enable the reporting of these activities, the Auditor-Controller's Office maintains a Whistleblower Hotline at 831-454-3333, a reporting website that can be accessed via the County's webpage, and accepts written reports at 701 Ocean Street, Room 100. Reports can be made anonymously. The Auditor-Controller receives and reviews Whistleblower Hotline reports, then forwards the reports to the appropriate departments to research and resolve as necessary. The Auditor-Controller's Office requires a response from departments within six months as to the resolution of the report. If appropriate, the Auditor-Controller's Office investigates reports independently.

The following are the statistics for the 2009 reporting period:

Contacts Received Via:

Letter	4
Telephone call	10
Hotline webpage reporting form	17
In person	<u>0</u>
Total contacts received	31

The Whistleblower Hotline has become a successful addition to the County's internal controls, due in part to the willingness of County departments and other agencies to investigate and communicate their findings.

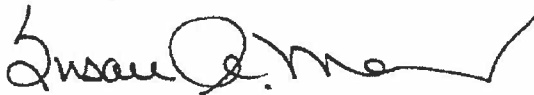
It is therefore RECOMMENDED that Board of Supervisors accept and file this report on the Whistleblower Hotline activity for calendar year 2009.

Sincerely,



Mary Jo Walker, CPA
Auditor-Controller

RECOMMENDED



SUSAN A. MAURIELLO
County Administrative Officer

CC: County Administrative Officer
Auditor-Controller's Office
Personnel Director

Attachment: Whistleblower Hotline Statistical and Reporting Overview 2009

Whistleblower Hotline Statistical and Reporting Overview 2009

Total contacts received: 31

Method of contact:

- 4 Letters
- 10 Telephone calls
- 17 Web page reports

Summary of contacts:

- 14 Determined to be outside the scope of the Hotline or general in nature. When possible, the reporting party was provided with the correct department, entity or agency to report their concern to, or we forwarded it on their behalf.
- 10 Determined to be personnel matters relating to current County employees. Six reports were reviewed and researched by the Auditor-Controller's Office, Personnel and the appropriate Department Heads resulting in corrective action when necessary. Four reports were open at year end. Due to the sensitive nature of personnel matters, those Hotline reports are not detailed in this report.
- 4 Reports of private individuals committing welfare fraud. Three reports were investigated by the Chief Welfare Fraud Investigator and determined to be unfounded. One report was referred to the Internal Revenue Service following allegations of income tax fraud.

3 Detailed below

	<u>Allegation Summary</u>	<u>Report Forwarded to and/or Reviewed By</u>	<u>Current Status</u>
1	County vendor was not in compliance with certain requirements of its contract with the County.	Auditor-Controller and the Department Head	Closed - Investigated by Auditor-Controller and the contract terms were found to lack sufficient clarity to determine non-compliance. The department worked with the vendor who has made changes to be in compliance with the intent of the contract.

Whistleblower Hotline Statistical and Reporting Overview 2009

2	The address of a home was provided where the owner may be fraudulently receiving property tax exemptions	Assessor	Closed - Assessor determined this property was not eligible for the property tax credits and took appropriate action.
3	Department shifted duties to higher paid staff, eliminating some lower paid staff members as a result. Additionally, the department is purchasing a very expensive piece of equipment. Both of these actions were questioned by the reporting party.	Auditor-Controller and Personnel	Closed - Investigated by the Auditor-Controller. Both of these actions were determined to have been adequately processed and reviewed by the Personnel Department and the Board of Supervisors.



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CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310
SANTA CRUZ, CA 95060

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CIVIL SERVICE COMMISSION AGENDA NOTICE OF PUBLIC MEETING

Location: Board of Supervisors' Chambers
County Government Center
701 Ocean Street, Fifth Floor
Santa Cruz, CA 95060

Date and Time: Thursday, July 16, 2009 at 5:45 p.m.

A regular meeting of the Civil Service Commission has been set for **5:45 p.m., Thursday, July 16, 2009** at the County Government Center, Board of Supervisors' Chambers, 701 Ocean Street, Fifth Floor, Santa Cruz, California.

This agenda is to invite you to participate in a public meeting of the Santa Cruz County Civil Service Commission. Please review the agenda for items of interest to you. You may come to the meeting and speak, or you may send a letter, which will be considered at the meeting. The letter should be addressed to the Personnel Director or Chair of the Civil Service Commission, and should reference the agenda date and specific items of interest to you.

AGENDA

- I. Call to Order
- II. Attendance
- III. Approval of Minutes for May 21, 2009 regular meeting
- IV. Additions and Corrections to Agenda
- V. Oral Communications
 - a. Public Comment
 - b. Secretary's Report
- VI. Old Business
- VII. New Business

- VIII. Reports
 - a. Adopt Delegated Classification Actions
 - b. Receive employment services report
 - c. Receive provisional appointment report
- IX. Correspondence Items
 - a. Letter, dated May 11, 2009, from Morgan Koch regarding the Whistleblower program
- XI. Adjourn to closed session: Commission will meet to discuss outstanding litigation (Santa Cruz Superior Court cases: CV 163520 and CV 157028). This portion of the meeting shall be closed to the public in accordance with Government Code 54947 and 54954.5.
- XII. Commission Counsel Report: Will be given at the conclusion of the closed session on any reportable action(s) taken in the closed session.
- XIII. Adjournment

Next regularly scheduled Commission meeting: Thursday, August 20, 2009

Meeting Announcements

The Commission will receive Oral Communications prior to regularly scheduled action items. Any person may address the Commission on any item of interest to the public, before or during the Commission's consideration of the item, **restricted to three minutes per individual and a maximum of thirty minutes overall**, provided that no action shall be taken on any item not appearing on the agenda. Commissioners may choose to follow up at a later time, either individually or on a subsequent Civil Service Commission agenda.

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors' Chambers are located in an accessible facility. If you wish to attend this meeting and you will require special assistance in order to participate, please contact Laurie Hill at 454-2948 (TDD number 454-2123) at least 72 hours in advance of the meeting in order to make arrangements. As a courtesy to those affected, please attend the meeting smoke and scent free.

Action Items Will Be Heard According to the Agenda Schedule

Civil Service Commission Minutes

Thursday, May 21, 2009

The Civil Service Commission held a quarterly meeting on Thursday, May 21, 2009 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California.

ORDER OF BUSINESS

1. Call to Order: Vice Chair Gordon called the meeting to order at 5: 50 p.m.
2. Attendance: Commissioners present: Chair Jack Gordon, Vice Chair Bob Taren, James Maxwell, Olivia Madrigal, and Carmen Potro. Staff present: Michael J. McDougall, Personnel Director, Ajita Patel, Deputy Director, and Laurie Hill, staff to the Commission.
3. Approval of Minutes: The minutes of the April 16, 2009, meeting were approved. Moved by Taren and 2nd by Madrigal, 5-0
4. Additions to the Agenda: Secretary Hill pointed to a written communication that was received just after the agenda was distributed and said it would be added to the July agenda. Author was contacted by phone.
5. Oral Communications (noted new time public comment time restriction – listed on agenda and posted in the Board Chambers. Three minutes per person). Susie Kriz, Public Works Disposal Site Maintenance Worker, presented a written complaint regarding job classification and discriminatory hiring. She distributed a similar letter to the Board of Supervisors and to the Public Works Department. Her complaints are with both SEIU and the County. Commissioner Taren suggested that the matter be placed on the Commission's next agenda. Secretary Hill offered and Director McDougall concurred that Public Works was investigating the matter and suggested that the investigation take place first. Kriz said she planned to attend the next meeting to update the Commission. There was no more public comment.
6. Secretary Report: Laurie Hill reported two new commissioner orientations and plans to schedule a third. She attended an ethics course and reminded the Commissioners of their obligation to attend an ethics course. We have a June 12 Superior Court hearing (CV163520). The Commission's dismissal appeal hearing originally calendared for May 6 has been continued at the request of the employee to June 17. There is June 29 Superior Court Case Conference meeting that may result in a case (CV 157028) being remanded back to the Commission for action. Thornton Kontz will attend. Commissioner Taren pointed out that only one of the remaining Commissioners attended that hearing and that the case may need to be reheard. Received a new appeal that we are trying to calendar for July 15 (Commissioners Gordon and Madrigal are available, waiting on response from others).
7. Old Business: Consider commendation for Judy Jones, retiring Civil Service Commissioner. Moved by Commissioner Taren and 2nd by Commissioner Maxwell to approve the commendation.
8. New Business
 - a. There was no new business

5/11/09

2009 MAY 15 PM 2:44

RECEIVED
PERSONNEL DEPT 2

Chair Jack Gordon,
Santa Cruz County Civil Service Commission
c/o Laurie Hill, Personnel
701 Ocean Street, Room
Santa Cruz, CA 95060

Re: Keeping Discussion on Improvements to the Whistleblower
Program Alive During This Board-Recommended Interim Period

Dear Chair Gordon & Commissioners:

in order to keep this issue current, I putting my request delivered to the
Commission at the April 2009 meeting into writing --

Good evening Commissioners. My name is Morgan Koch and I've been a
County employee for eight and a half years and a resident and citizen of Santa
Cruz County for over twenty years.

A few months ago members of SEIU, including myself, met with the Auditor-
Controller and her chief deputy to gather information on how the Whistleblower
program actually works. We found that there is a very efficient system of
procedures in place to handle the issues brought to this program and to maintain
confidentiality at that stage of the process.

However, as has been mentioned previously and as was also found by the
Grand Jury, once the complaint is released to the department where the alleged
complaint originated, confidentiality can no longer be guaranteed -- as several
staff members have already reported. It is my understanding that it was the
intent of the Grand Jury recommendations and the recommendation of this
Commission to the Santa Cruz County Board of Supervisors that a solution to
this lack of confidentiality during the Whistleblower investigatory process be
found, perhaps through an independent commission.

Per the letter in the Agenda packet for this Civil Service Commission meeting,
the Board has decided to shelve the set up of an independent commission for a
year. While this is understandable during these difficult economic times when
other perhaps more critical issues need to be addressed, I sincerely hope that
the Commission will not wane in its efforts to seek a solution to this lack of
confidentiality during the investigatory process.

I would therefore like to respectfully request that during this waiting period mentioned in the Board letter that the Commission continue to research how confidentiality and integrity might be maintained in the Whistleblower program through an independent commission or through some other expedient means.

I appreciate the Commission's consideration of this important matter and am,

Sincerely yours,

A handwritten signature in cursive script that reads "Morgan Koch".

Morgan Koch
SEIU Local 521 Steward,
County Employee & Concerned Citizen

Civil Service Commission Minutes
Thursday, July 16, 2009

The Civil Service Commission held a quarterly meeting on Thursday, July 16, 2009 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California.

ORDER OF BUSINESS

1. Call to Order: Chair Gordon called the meeting to order at 6:12 p.m. – waited for quorum.
2. Attendance: Commissioners present: Chair Jack Gordon, Vice Chair Bob Taren, and James Maxwell. Absent: Olivia Madrigal (excused) and Carmen Potro. Staff present: Michael J. McDougall, Personnel Director, Ajita Patel, Deputy Director, and Laurie Hill, staff to the Commission.
3. Approval of Minutes: The meeting minutes for May 21, 2009, were approved. Moved by Taren and 2nd by Madrigal, 3-0-2
4. Additions to the Agenda: There were no additions.
5. Oral Communications: Suzie Kriz, Public Works Disposal Site Maintenance Worker, revisited her written complaint, first presented to Commission on May 21, regarding job classification and discriminatory hiring. She said that the Public Works internal investigative report, dated July 6, was incomplete and did not explain “anything” to her. She presented a letter to the Commission and asked them to place her concern on their next agenda. Kriz clarified that she only wanted to address the classification matter with the Commission. After a brief discussion the Commission directed staff to place the item on the August 20 agenda for a brief response. Morgan Koch, from the Auditor’s office, spoke and submitted a request in writing asking the Commission to 1) meet more frequently, 2) review the County’s nepotism rule that allows the hiring of spouses 3) address the culture of “fear” 4) revisit the Grand Jury report regarding the Whistleblower program 5) revisit the Commission’s mandate and role beyond hearing the appeals of disciplinary matters. There was no other public comment.
6. Secretary Report: Laurie Hill Secretary Hill reviewed the Commission’s hearing calendar: August 19 for Sheriff Department case and October 21 for Planning Department case.
7. Old Business: There was no old business.
8. New Business: There was no new business.
9. Reports
 - a. Adopted Delegated Classification Actions. Taren asked about the location assignment for the new Psychiatrists. Maxwell moved, and Taren seconded, approved 3-0-2
 - b. Received Provisional Report
10. Received Correspondence Item: Letter, dated May 11, 2009, from Morgan Koch regarding the Whistleblower program.

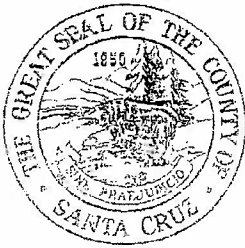
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Page 2 of 2

11. Adjournment: To closed session to discuss outstanding litigation (Santa Cruz Superior Court cases: CV 163520 and 157028).
12. Commission Counsel Report: At the direction of Superior Court, voted 3-0-2 to reinstate the demotion of Deputy Sheriff Tony Jack.
13. Adjournment: There being no other business or public comments, the quarterly meeting was adjourned at 6:55 pm. Next meeting August 20, 2009.

Respectfully submitted,

Laurie Hill, Staff to the Commission




COUNTY OF SANTA CRUZ

PERSONNEL DEPARTMENT

701 OCEAN STREET, SUITE 310, SANTA CRUZ, CA 95060-4073
(831) 454-2600 FAX: (831) 454-2411 TDD: (831) 454-2123
MICHAEL J. MCDUGALL, PERSONNEL DIRECTOR
AJITA PATEL, DEPUTY DIRECTOR

MEMORANDUM

TO: Chairperson Neal Coonerty

FROM: Michael J. McDougall, Personnel Director 

RE: SEIU Letter to Board of Supervisors

DATE: November 6, 2009

On October 20, 2009, SEIU Director Nicholas Steinmeier sent the Board of Supervisors a letter raising concerns regarding the Civil Service Commission, the County's Whistleblower program, and other personnel related issues, all of which SEIU has raised several times in various venues. Below, for your review, is the Personnel Department's perspective on the issues raised by Mr. Steinmeier's letter.

- 1) **Conflicts of Interest:** Mr. Steinmeier contends "the County has opened itself to various conflict of interest issues." The issues he presents are:
 - a. The Civil Service Commission's "reliance" on the Personnel Department for administrative support.

Mr. Steinmeier contends that there is a conflict of interest because the Commission "is mandated to oversee Personnel's ongoing implementation of the County's Civil Service Code [sic]".

We disagree that there is a conflict. Neither the County Code nor the Civil Service Rules (Personnel Regulations and References, Section 130) provides that the Commission "oversees" or has any authority over the Personnel Department.

County Code Section 2.46.080 provides that the Commission "shall oversee the recruiting, examining, selection, position classification and disciplinary systems of the classified service." Section 2.46.060(4)(G) directs "the personnel director to serve as secretary to the civil service commission, and shall provide sufficient staff support for the commission to perform its duties." There is no basis for the claim that provision of administrative staff creates a conflict between these entities.



Pursuant to County Code section 2.16.020 the Personnel Director is appointed by and reports to the CAO. Because the Commission and the Personnel Department operate independently, the current structure does not create any conflict of interest.

- b) The County's nepotism policy presents "another potential area for . . . conflict of interest issues."

In support of this assertion, Mr. Steinmeier falsely claims, as he has several times previously, that the County's former Personnel Director hired her husband to a "high-paying County position" and that as a result she and her husband "had to vacate their positions." Likewise, Mr. Steinmeier's claim that the former Personnel Director has "the last word on all County hirings" is also false. Each department head is the appointing authority for hires made in his or her department.

The former Personnel Director was not personally involved directly or indirectly in any hiring decisions relating to her husband's employment with the County. In fact, a different department head in compliance with all County rules hired him. In its 2007-2008 final report, the County Grand Jury determined that the County's nepotism policy was not violated. The Civil Service Commission reviewed the matter and concurred. The former Personnel Director and her husband were in excellent standing as County employees when they relocated for family reasons, and they were not forced out of their positions.

- c) The County's Whistleblower program presents a conflict of interest.

The Whistleblower program also has been the frequent target of Mr. Steinmeier and SEIU. They argue that a body that is independent of the County should operate the program. However, while he raises the issue, Mr. Steinmeier's letter does not describe any conflicts of interest that have resulted from the County's administration of the program.

- 2) **Independent Administrators.** Mr. Steinmeier's letter argues that the Commission and the Whistleblower program should be staffed by an independent administrator selected with union input.

Mr. Steinmeier contends that the current Commission and Whistleblower program structure creates a system in which employees fear they will lose future employment opportunities if they protest actions by their supervisor, department head or Personnel. He suggests that an "independent civil service administrator" be hired, presumably to run these programs. However, Mr. Stienmeier provided no evidence that there is any basis for this concern.

The County has already studied the feasibility of an independent administrator. At the request of the Civil Service Commission, the County recently surveyed eight comparable counties regarding the staffing of their Civil Service Commissions. Six of those eight counties – Contra Costa, Solano, Marin, Sonoma, San Mateo and

Santa Clara – have a Civil Service Commission or an equivalent body (Merit Board or Personnel Board). Five of the six counties staff those commissions/boards with Human Resources or Personnel employees. The Clerk of the Board of Supervisors staffs one County Personnel Board. None of these six counties staff their Civil Service Commissions, Merit Board or Personnel Board with independent administrators. Based on this survey, the County rejected this idea.

3) **The Civil Service Commission is Unresponsive:** Mr. Steinmeier complains that the Civil Service Commission has done little or nothing to address concerns that SEIU and its members have brought to its attention.

a) **The Whistleblower program.**

The letter complains that the "BOS put on hold for a year any needed improvements to the Whistleblower program." In 2008, the Commission responded to SEIU's concerns and formed an ad hoc committee to study the Whistleblower program. On January 26, 2009, the Commission reported the committee's findings to your Board. The Commission asked the Board to "revisit the Grand Jury's recommendation to establish a body independent of county government to serve as the first point of contact for whistleblower complaints." In a letter to the Commission dated January 30, 2009, you stated that the Board felt it would be appropriate to wait for a year to see if the changes made to the Whistleblower program in September 2008 had resolved identified problems. Your letter invited the Commission to update the Board in a year regarding the effectiveness of those changes. Accordingly, the Commission has taken no further action on this matter.

In the meantime, the Whistleblower program continues to operate as designed and is not "essentially inactive," as Mr. Steinmeier states.

b) "The reclassification system is yet another unresolved issue" on which the Commission has "not acted."

To support this statement, Mr. Steinmeier cites an argument presented to the Commission by an SEIU member who claimed that the County improperly classified two different types of positions with different duties as the same job class - Disposal Site Maintenance Worker - with the same pay. (The member is not identified by name in Mr. Steinmeier's letter, but her name appears in Civil Service Commission minutes and a written complaint and other documents she submitted to the County.) What Mr. Steinmeier did not mention is that the study that resulted in the classification to which the member objected was reviewed and approved by SEIU. In the nine years since this classification study SEIU has never objected to it.

Mr. Steinmeier's letter also omits that the member's complaint about the study was directed not only against the County but also against SEIU. She accused SEIU of being "part and parcel to creating this disparity within this Job Class." On May 21, 2009, the member provided the Commission with a copy of a May 14, 2009 letter

that she wrote to SEIU, in which she complained that SEIU had "taken advantage of our good faith and confidence" and placed equal blame on SEIU and the County for creating the job description in question. On July 16, 2009, the member further complained about SEIU's lack of responsiveness in a letter to the Commission

- c) The Commission ought to "work on" civil service issues raised by SEIU at its meetings.

Mr. Steinmeier contends that the Commission is not fulfilling its obligations to "act" on the "important issues" that SEIU has presented to it. He suggests that this reflects a lack of the commissioners' commitment or ability. However, the record shows that the Commission, the County Grand Jury and the Board of Supervisors have extensively addressed each of the issues he and SEIU have raised. Mr. Steinmeier's letter appears to be triggered by his disagreement with the outcome of those discussions rather than any failure on the part of the Commission to address the issues.

cc: Susan Mauriello, County Administrative Officer



SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW-CLC

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Toll Free:

1-877-SEIU-521

www.seiu521.org

October 20, 2009

Santa Cruz County Board of Supervisors
c/o Chairperson, Neal Coonerty
701 Ocean Street, 5th Floor
Santa Cruz, CA 95060

Re: Important Issues Pending Before the Civil Service Commission

Dear Supervisors:

It has come to our attention that -- despite the fact that several County staff-related issues as presented by SEIU Local 521 remain unresolved, the CSC-- during their May 2009 meeting, voted to adjourn after only 10 minutes even though there was a quorum present. At the next meeting in July one of our members addressed the CSC to respectfully remind them of the following important issues that have remained before the Commission for some time now:

1) The reliance of the CSC upon the Personnel Department for its administration even though the CSC is mandated to oversee the Personnel Department's ongoing implementation of the County's Civil Service Code -- not be directed by Personnel. This is just one area where the County has opened itself to conflict of interest issues. Also please see a summary of the 2008 Grand Jury recommendations attached.

2) Another potential area for the arising of conflict of interest issues is Article XV of the Code which is apparently worded so inadequately as to allow the former Personnel Director -- who has the last word on all County hirings -- to hire her husband albeit indirectly to what turned out to be another high-paying County position. Had this article been properly worded to include the appearance of impropriety -- as we recently suggested to the CSC -- the County could have been spared the difficulty when this issue arose in the public eye and both County employees had to vacate their positions.

3) Yet another County conflict-of-interest issue arises with the County's Whistleblower program where the County itself is overseeing the program which was designed to root out potential wrongdoing within the County. Shouldn't a body independent of the County be overseeing and implementing such a program? SEIU understands that in a letter to the CSC that the BOS put on hold for a year any needed improvements to the Whistleblower program, thereby rendering it essentially inactive until such an independent body is appointed. In the meantime, how are conflict of interest issues within the County to be resolved?

4) The reclassification system is yet another unresolved issue that has been presented to the CSC upon which they have not acted. Recently a member

IX b.

argued very convincingly before the CSC that her position and that of 10 of her co-workers should be reclassified because of the wide gap between their qualifications and those of the remaining people in their class -- at least to create levels within this currently one-level position. Rather than acting independently on this issue, the CSC merely followed what the Personnel Department told them to do and did nothing on this particular issue and have done nothing to independently go about improving the County reclassification system in general.

5) The CSC has also not worked to address the issue presented to it that there is a fear among county employees that if one protests an action by Personnel or one's department head or even one's supervisor, one will forfeit opportunities to be considered for promotions or vacancies. Is the promotion of fear in the workplace the best environment for County staff to provide the high quality of services which they are asked to provide? At the very least, the CSC needs to issue a statement that decries this kind of environment and works toward a means to monitor and to make sure that it has no place in County government. Ideally and eventually there needs to be an independent person that works for the CSC and runs the whistleblower program with input from labor organizations on the hiring of this independent civil service administrator.

Despite this address by one of our members to the Civil Service Commission in July with a respectful request to the Commission they not adjourn early when they have a quorum, but work on at least one of these important issues at each of their meetings. none of these issues appeared on the agenda for the next CSC meeting in August.

Anticipating this, one of our members addressed the Commission in August with a request that the CSC consider stronger wording for Article XV of the County's civil service code (as mentioned above) to ensure that the County will never again be subject to conflict of interest accusations with regard to preferential hirings. By October 15th the CSC will have had two months to consider this issue. Will the CSC finally act on one of the important issues that have been presented to them or will it again be omitted from their October 15th Commission agenda without comment?

While SEIU understands the need for the Board to put on hold the implementation of the 2008 Grand Jury's recommendations as expressed in their letter to the CSC, we do not conclude that this means that this or any other important civil service issue should not be discussed at each Commission meeting toward reaching effective and acceptable resolutions. Isn't that the purpose of the CSC and isn't that the intention of the BOS when they appoint their individual district commissioner to the CSC -- namely, to discuss valid civil service issues toward improving the working environment for all County employees -- management and staff alike -- toward providing the of highest quality services to the public they serve?

The issue of the volunteer status of the Commissioners along with the issue that the Commission has a small budget have come up from time-to-time at the Commission meetings. It has also been noted that three of the five Commissioners are not retired and that even the retirees themselves continue to lead active lives. With these facts there has arisen the implication that the Commission does not have much time to deal with these issues that have been brought up by both SEIU and the Grand Jury. Until the BOS is able to appoint an independent administrator to the Commission and is able to increase the Commission's budget accordingly, we would ask the BOS to meet with your individual Commissioners on a regular basis to determine if they are able to effectively discuss and resolve civil service issues on a regular basis. If not, we would request that people with that capability be appointed in their place.

SEIU Local 521 appreciates your careful consideration of these important ongoing civil service issues.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Nicholas Steinmeier', with a long horizontal line extending to the right.

Nicholas Steinmeier, Executive Director
SEIU Local 521, Santa Cruz
517-B Mission Street
Santa Cruz, CA 95060

NS:Kns SEIU521/CTW-CLC

IX b.

The problems:

1. Favoritism in hiring, avoidance of merit-based hiring by using provisional appointments & corruption of the testing process. Provisional appointments should be for a proven specific urgent need & would have to be approved by the CSC.
2. CSC is to oversee the personnel dept's administration of the civil service system, yet the commission's staff are supervised by the Personnel Director. The Commission should supervise their staff directly. There seems to be a need for a person independent of the Personnel Dept that works for the Commission. See #5 for further thoughts on this.
3. County's nepotism policy only addresses supervision (i.e. you can't supervise your husband) but does not address hiring (you CAN hire your husband, as long as someone else supervises him!). Policy should be changed to address circumstances where there is influence over the hiring process (ie mgmt members of the personnel dept)
4. The CSC only meets quarterly mainly functions as a review board for disciplinary actions; it does not in general oversee the civil service system even though it is supposed to. The CSC should meet monthly on a regular basis to carry out all of its responsibilities
5. There is a culture of fear among county employees that if you protest an action by Personnel or your department head or even your supervisor, you will forfeit opportunities to be considered for promotions or vacancies. There needs to be an independent person that works for the CSC and runs the whistleblower program with input from labor organizations on the hiring. This person can field & investigate complaints on issues listed in issues 2, 5 & 6.
6. The whistleblower program doesn't work. It doesn't protect the ID of people who complain and no one follows up on complaints, they're just handed over to the department head where the complaint came from.
7. The reclassification system is broken; the job specs are too old. - Remove issue for now and deal during bargaining?

Grand Jury Complaint: How would you like to see this matter resolved?

1. The Grand Jury should audit the hiring practices of the County Personnel Department presented in this complaint, make recommendations for management improvement including ordinance changes and, where the potential exists for grounds for an indictable offense, refer any abuses to the appropriate authority. We believe a full audit is necessary in order to restore confidence in the transparency and impartiality of the County's employment practices.

2. Strengthen Civil Service Commission oversight: The problems raised in this complaint point to a breakdown of oversight of the administration of county personnel practices by the Civil Service Commission. The Commission is staffed by the personnel director, the primary management authority it is supposed to oversee. As a volunteer Commission it is currently a passive oversight body, waiting for issues to be brought before it. It only has quarterly meetings to oversee a personnel system of nearly 4000 employees, and is also tasked with hearing disciplinary appeals. We believe the measure below will give the Commission the tools it needs to develop the ability to inquire into the operation of the civil service merit system to ensure compliance:

A. The Commission should have an arms-length relationship with the managers it monitors, which could be addressed by having it's own independent staff to be hired and fired directly by the Commission. Such a model currently exists within this county in the Santa Cruz Unified School District.

B. The Commission should meet monthly and be given additional resources, perhaps some compensation similar to the Planning Commission. As a comparison, the School District's Commission meets monthly to oversee a civil service system involving 300 employees.

C. The terms of Commissioners should be shorter to lessen the burden on the volunteers who agree to take on this difficult job of public service.

D. Employees should have some form of meaningful representation on the Commission to increase its credibility and its ability to

communicate with county workers.

3. Establish an independent ombudsman system with authority to investigate complaints. County employees are not protected in coming forward to report abuses, and the whistleblower program is an inadequate avenue for reporting unethical/illegal activity. Alternatively, the Civil Service Commission, if it were to succeed in becoming independent, could establish procedures similar to those in other jurisdictions such as the County of San Francisco. In that system, an investigation is triggered upon receipt of inquiries related to the integrity of the merit system, and may be submitted by applicants, employees or members of the public, by email or in person, and may be submitted anonymously.

→ Specifics of the San Francisco process are included with the packet.

4. End secrecy and favoritism in transfers to fill vacancies in government. Positions available should be posted, and qualified volunteers should be given the opportunity for the transfer. Lacking volunteers, the least senior employee in the relevant job class should be subject to the transfer, to give employees protection from arbitrary reassignments which can involve a significant increase in the time and cost of commuting.

July 16, 2009

Chair Mr. Jack Gordon, Esquire
Santa Cruz County Civil Service Commission,
c/o Laurie Hill, Risk Management
Department of Personnel
701 Ocean Street, 5th Floor
Santa Cruz, CA 95060

Re: Issues Currently Pending Before the Commission

Good evening, Commission Chair Gordon, Commissioner Potro, Commissioner Madrigal, Commissioner Taren and Commissioner Maxwell.

My name is Morgan Koch and I have worked for the County of Santa Cruz for almost nine years and have been fortunate to be a resident of Santa Cruz County for over 20 years.

I apologize for not bringing forth an issue or issues to work with at the last Commission meeting in May, but for some reason I thought that the issues brought up in the Agenda Attachment entitled: "Frequency of Regularly Scheduled Commission Meetings" were going to be discussed by the Commission that evening and I was planning to make comments on that attachment as the Commission discussion proceeded. Perhaps the Commission addressed the main issue of this attachment: "Should the Commission meet more frequently?" by voting to try out a two month on, one month off schedule to see if that may more effectively assist the Commission in fulfilling its mandate to oversee the Personnel Department's administration of the civil service system. Hence, my assumption now is that no further discussion is at least currently required on this issue.

However, my understanding is that several other unresolved issues still remain before this Commission. Perhaps I do not have a full understanding with regard to this Commission's role in addressing and hopefully resolving these issues, but I would like to respectfully remind the Commission that these issues still remain unresolved and the citizens of Santa Cruz County would be well served if at least one of these issues were dealt with and resolved at each of the forthcoming Commission meetings including this evening's Commission meeting. These issues currently are:

- 1) The County's nepotism policy. This policy only addresses supervision (i.e. you can't supervise your spouse) but does not address hiring (you CAN hire your spouse, as long as someone else supervises him/her). It has been respectfully submitted to the Commission that this policy should be changed to address circumstances where there is influence over the hiring


*III. MINUTES - July 16, 2009
ATTACHMENT B*

process so that a spouse, friend or family member recuses themselves if either hiring or supervision of a spouse, friend or family member is involved.

- 2) There is a culture of fear among county employees that if you protest an action by department management or even your supervisor, you will forfeit opportunities to be considered for promotions or vacancies. A statement from this Commission with regard to this issue -- with input from labor organizations -- would be one important step forward in effectively addressing this issue and in providing a more supportive work environment for all county employees.
- 3) As the Grand Jury clearly concluded, the whistleblower program doesn't work for personnel-related issues. It doesn't protect the identification of people who complain and no one follows up on complaints. They're just handed over to the department head where the complaint came from. During this interim period imposed by the Board, there is an opportunity to further discuss and find ways to improve this important program.
- 4) Although the Civil Service Commission now meets somewhat more frequently it continues to function mainly as a review board for disciplinary actions; it does not in general oversee the civil service system even though that is its mandate. It has been respectfully submitted to the Civil Service Commission that it should meet monthly on a regular basis to carry out all of its responsibilities. Perhaps a discussion of the Civil Service Commission's mandate and role would provide another issue worth considering during these meetings.

I would respectfully submit to this Commission that these issues are well worthy of the Commission's time and consideration each time they convene until they are satisfactorily resolved for the benefit of all concerned.

I thank you for your time and remain respectfully yours,



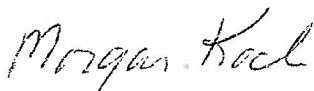
Morgan Koch
Santa Cruz County Employee & Citizen

process so that a spouse, friend or family member recuses themselves if either hiring or supervision of a spouse, friend or family member is involved.

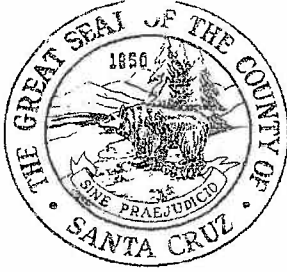
- 2) There is a culture of fear among county employees that if you protest an action by department management or even your supervisor, you will forfeit opportunities to be considered for promotions or vacancies. A statement from this Commission with regard to this issue -- with input from labor organizations -- would be one important step forward in effectively addressing this issue and in providing a more supportive work environment for all county employees.
- 3) As the Grand Jury clearly concluded, the whistleblower program doesn't work for personnel-related issues. It doesn't protect the identification of people who complain and no one follows up on complaints. They're just handed over to the department head where the complaint came from. During this interim period imposed by the Board, there is an opportunity to further discuss and find ways to improve this important program.
- 4) Although the Civil Service Commission now meets somewhat more frequently it continues to function mainly as a review board for disciplinary actions; it does not in general oversee the civil service system even though that is its mandate. It has been respectfully submitted to the Civil Service Commission that it should meet monthly on a regular basis to carry out all of its responsibilities. Perhaps a discussion of the Civil Service Commission's mandate and role would provide another issue worth considering during these meetings.

I would respectfully submit to this Commission that these issues are well worthy of the Commission's time and consideration each time they convene until they are satisfactorily resolved for the benefit of all concerned.

I thank you for your time and remain respectfully yours,



Morgan Koch
Santa Cruz County Employee & Citizen



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310
SANTA CRUZ, CA 95060

TELEPHONE: (831) 454-2600
FAX: (831) 454-2411
TDD: (831) 454-2123

CIVIL SERVICE COMMISSION AGENDA NOTICE OF PUBLIC MEETING

Location: Board of Supervisors' Chambers
County Government Center
701 Ocean Street, Fifth Floor
Santa Cruz, CA 95060

Date and Time: Thursday, April 16, 2009 at 5:45 p.m.

A regular meeting of the Civil Service Commission has been set for **5:45 p.m., Thursday, April 16, 2009** at the County Government Center, Board of Supervisors' Chambers, 701 Ocean Street, Fifth Floor, Santa Cruz, California.

This agenda is to invite you to participate in a public meeting of the Santa Cruz County Civil Service Commission. Please review the agenda for items of interest to you. You may come to the meeting and speak, or you may send a letter, which will be considered at the meeting. The letter should be addressed to the Personnel Director or Chair of the Civil Service Commission, and should reference the agenda date and specific items of interest to you.

AGENDA

- I. Call to Order
- II. Attendance
- III. Approval of Minutes for January 16, 2009 quarterly meeting
- IV. Additions and Corrections to Agenda
- V. Oral Communications
 - a. Public Comment
 - b. Secretary's Report
- VI. Old Business
 - a. Consider increasing the frequency of Commission's regularly scheduled meetings

- VII. New Business
 - a. Introduce new Civil Service Commissioner – Appointed April 14, 2009
 - b. Accept and file Personnel Department Mission Vision Statement
 - c. Review Proposed Changes to the One Year Probationary List:
 - Consider adding Welfare Investigator I and II
 - Amend Title Changes and Remove Obsolete Classifications
- VIII. Reports
 - a. Adopt Delegated Classification Actions
 - b. Receive Employment Services Division Workload Report
 - c. Receive Provisional Appointment Report
- IX. Correspondence Items
 - a. Letter from the Board of Supervisors acknowledging receipt of Commission's Annual Report
 - b. Letter from Commission, dated January 26, 2009, to Board of Supervisors regarding the Whistleblower Hotline
 - c. Letter from Board of Supervisors, dated January 30, 2009, in response to Commission's January 26, 2009 letter regarding the Whistleblower Hotline
 - d. Letter from Board of Supervisors dated February 4, 2009, thanking Commissioners for this past year of service.
- XI. Adjournment

Next Quarterly Commission Meeting: Thursday, July 17, 2009

Meeting Announcements

The Commission will receive Oral Communications prior to regularly scheduled action items. Any person may address the Commission on any item of interest to the public, before or during the Commission's consideration of the item, **restricted to three minutes per individual and a maximum of thirty minutes overall**, provided that no action shall be taken on any item not appearing on the agenda. Commissioners may choose to follow up at a later time, either individually or on a subsequent Civil Service Commission agenda.

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors' Chambers are located in an accessible facility. If you wish to attend this meeting and you will require special assistance in order to participate, please contact Laurie Hill at 454-2948 (TDD number 454-2123) at least 72 hours in advance of the meeting in order to make arrangements. As a courtesy to those affected, please attend the meeting smoke and scent free.

Action Items Will Be Heard According to the Agenda Schedule

Civil Service Commission Minutes
Thursday, January 15, 2009

The Civil Service Commission held a quarterly meeting on Thursday, January 15, 2009 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California.

ORDER OF BUSINESS

1. Call to Order: Vice Chair Gordon called the meeting to order at 5: 50 p.m.
2. Attendance: Commissioners present: Vice Chair Jack Gordon, Judy Jones, Olivia Madrigal and James Maxwell. Staff present: Michael J. McDougall, Personnel Director, Ajita Patel, Deputy Director, and Laurie Hill, staff to the Commission.
3. Approval of Minutes: The minutes of the November 20, 2008 meeting were approved as amended by Commissioner Jones and approved: 4-0. Add "Board of Supervisors". Reverend Oracle clarified that she requested background information for all Planning Department staff and Nancy Elliott was concerned that Merit Board and Personnel Board findings were not listed in minutes.
4. Additions to the Agenda: Replacement handout on Building Inspectors.
5. Oral Communications:
 - a. G. Richard Arnold presented concerns regarding background of planning staff. Suggested moratorium on hiring.
 - b. Reverend Oracle reported concerns about delays in the Planning department processes and requested an audit. Offered Health and Safety Code 18949.28 and 17960.1 D.
6. Secretary Report: Laurie Hill reported no new appeals and a request for the official record of the last appeal hearing. Reminded Commissioners of their obligation to complete ethics training and provided an on line resource. Offered to schedule an orientation session for new commissioners and delivered parking permits and agenda for upcoming Equal Employment Opportunity meeting.
7. Old Business:
 - a. Oral report on enhanced website posting of support documents for Commission meetings: This month's meeting agenda included electronic copies of standardized reports to the Commission. Commissioners requested that all possible reports related to meeting agendas be posted to the Commission's website.
 - b. Receive report on the frequency of Civil Service Commission meetings at the County's eight comparable agencies: Received report and noted that many Commissions meet more frequently than Santa Cruz. Commissioner Taren felt that the Commission loses momentum and should consider more frequent meetings. Commissioner Madrigal concurred. Commission asked for a staff report at the next meeting with more information about our comparable counties and about increasing the number of Commission meetings.

- c. Consider draft letter to the Board of Supervisors' regarding Commissions' concerns about the county's Whistleblower program. The Commission approved the letter as drafted.
- d. Received report on qualifications of the County's Building Inspectors. List was corrected to include the Chief Building Official. Comments from G. Richard Arnold, Reverend Oracle, and Commissioners Taren, Madrigal and Gordon. Report accepted.
- e. Commission approved Certificates of Appreciation for outgoing Commissioners Patricia Fink and Michael Barsi.

8. New Business

- a. Introduced new Civil Service Commissioner: James M. Maxwell
- b. Elect Commission Chair: Commissioner Jones nominated and Maxwell seconded Jack Gordon. Approved: Commissioner Jones nominated and Commissioner Gordon seconded Commissioner Taren for Vice Chair.
Approved:
- c. Commissioner approved proposed update to Civil Service Policy with respect to abolishing eligibility lists. Delete reference to Affirmative Action Officer and replace with Equal Employment Officer.
- d. Commission approved limiting public comments to five minutes each and no more than 30 minutes total. Moved by Taren, Seconded by Madrigal, Approved: 4-0 Directed staff to add language to upcoming agendas and to post a sign at upcoming meetings.

9. Reports

- a. Approved draft Annual Report for the Year 2008. Moved by Jones, Seconded by Madrigal, approved: 4-0. Asked staff to post on website.
- b. Adopted Delegated Classification Actions.
- c. Received Employment Services Division Workload Report.
- d. Received Provisional Appointment Report.
- e. Distributed Civil Service 2009 Schedule of Meetings.

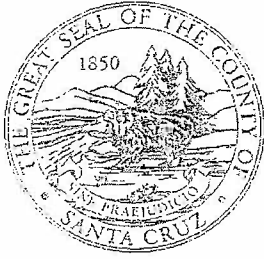
10. Received Correspondence Items

- a. Board of Supervisors' appointment of new Civil Service Commissioner, James M. Maxwell, dated December 9, 2008 for a term to expire Dec. 31, 2011
- b. Letter of resignation, tendered November 18, 2008, from Commissioner Barsi.

11. Adjournment: There being no other business or public comments, the quarterly meeting was adjourned at 7:10 pm

Respectfully submitted,

Laurie Hill, Staff to the Commission



County of Santa Cruz

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069
(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JOHN LEOPOLD
FIRST DISTRICT

ELLEN PIRIE
SECOND DISTRICT

NEAL COONERTY
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

MARK W. STONE
FIFTH DISTRICT

AGENDA: 2/3/09

January 22, 2009

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: ANNUAL REPORT OF THE CIVIL SERVICE COMMISSION

Dear Members of the Board:

Attached is the 2008 Annual Report of the Civil Service Commission. I recommend that the Board accept and file this report and direct the Chairperson to thank the members of the Commission for their efforts on behalf of the County.

Sincerely,

NEAL COONERTY, Chairperson
Board of Supervisors

NC:pmp
Attachment

✓ cc: Civil Service Commission

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RECEIVED
SHERIFF DEPT
09 JAN 27 AM 9:58

IX a



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310, SANTA CRUZ, CA 95060-4073
(831) 454-2600 FAX: (831) 454-2411 TDD: (831) 454-2123

January 26, 2009

Santa Cruz County Board of Supervisors
701 Ocean Street, Suit 521
Santa Cruz, CA 95060

Dear Supervisors,

For the last year, several county employees and their representatives have come before the Civil Service Commission to express dissatisfaction concerns about the county's whistleblower program. The Commission formed an ad hoc committee in response to hear the employee's concerns.

As you know, the whistleblower program, managed by the Auditor's office, provides an opportunity for the community and employees to report misconduct or abuse within the county system. It assumes anonymity for the reporting party. The Auditor's Office receives the whistleblower complaints and typically forwards them to the impacted department for investigation and resolution.

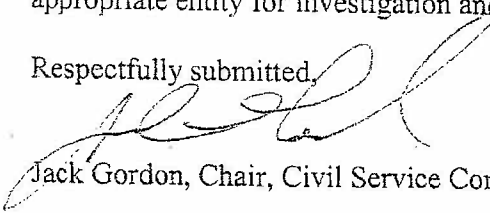
Employees feel that complaints forwarded directly to the impacted department make it easy for the department to identify the reporting party and they fear retaliation. They claim that the process creates a barrier that discourages employees from reporting misconduct.

Service Employees International Union reported their dissatisfaction about the whistleblower program to the Grand Jury. The 2007-2008 Grand Jury's report concurred with the union's concerns about anonymity. They recommended that reporting parties be told that complaints are forwarded to the appropriate department head for action and encouraged the Board to create an independent body for whistleblower complaints.

On September 23, 2008, your Board approved changes to the Whistleblower Hotline policy that clarify that reports within the Hotline parameters will be investigated either by a staff person in the Auditor-Controller's office or will be forwarded to the appropriate Department Head for resolution.

The work of the Commission's ad hoc committee is complete. The full Commission now requests that your Board take the next step and revisit the Grand Jury's recommendation to establish a body independent of county government to serve as the first point of contact for whistleblower complaints. After this initial screening, the complaint may be forwarded to the appropriate entity for investigation and resolution.

Respectfully submitted,


Jack Gordon, Chair, Civil Service Commission

IX b.



County of Santa Cruz

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069
(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JOHN LEOPOLD
FIRST DISTRICT

ELLEN PIRIE
SECOND DISTRICT

NEAL COONERTY
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

MARK W. STONE
FIFTH DISTRICT

January 30, 2009

Jack Gordon, Chair
Civil Service Commission
701 Ocean Street
Santa Cruz, CA 95060

Dear Mr. Gordon:

Thank you for your letter dated January 26, 2009, regarding the County's Whistleblower Hotline. A copy of your letter has been circulated to all members of the Board.

While I appreciate the comments conveyed in your letter, given that the Board approved changes to the Whistleblower program in September, I believe it would be appropriate to wait for a year to see if the changes are sufficient to address the problems identified by the Grand Jury and others. Therefore, I would invite the Commission to contact the Board again in a year to provide an update on the effectiveness of these changes. Based on your findings at that time, it may be appropriate to explore the option of having an independent body investigate complaints to the Whistleblower Hotline.

Again, thank you for transmitting the Commission's request. I look forward to receiving future recommendations from the Commission on this issue as you deem appropriate.

Sincerely,

NEAL COONERTY, Chairperson
Board of Supervisors

NC:ted

cc: Clerk of the Board
County Administrative Officer
Auditor-Controller

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COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310
SANTA CRUZ, CA 95060

TELEPHONE: (831) 454-2600
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CIVIL SERVICE COMMISSION AGENDA NOTICE OF PUBLIC MEETING

Location: Board of Supervisors' Chambers
County Government Center
701 Ocean Street, Fifth Floor
Santa Cruz, CA 95060

Date and Time: Thursday, January 15, 2009 at 5:45 p.m.

A regular meeting of the Civil Service Commission has been set for **5:45 p.m., Thursday, January 15, 2008** at the County Government Center, Board of Supervisors' Chambers, 701 Ocean Street, Fifth Floor, Santa Cruz, California.

This agenda is to invite you to participate in a public meeting of the Santa Cruz County Civil Service Commission. Please review the agenda for items of interest to you. You may come to the meeting and speak, or you may send a letter, which will be considered at the meeting. The letter should be addressed to the Personnel Director or Chair of the Civil Service Commission, and should reference the agenda date and specific items of interest to you.

AGENDA

- I. Call to Order
- II. Attendance
- III. Approval of Minutes for November 20, 2008, continued quarterly meeting
- IV. Additions and Corrections to Agenda
- V. Oral Communications
 - a. Public Comment
 - b. Secretary's Report
- VI. Old Business
 - a. Oral report on enhanced website posting support documents for Commission meetings
 - b. Receive report on the frequency of Civil Service Commission meetings at the County's eight comparable agencies
 - c. Consider draft letter to the Board of Supervisors' regarding Commissions'

- d. concerns about the county's whistleblower program
- d. Receive report on qualifications of the County's Building Inspectors
- e. Consider draft Certificates of Appreciation for outgoing Commissioners Patricia Fink and Michael Barsi

VII. New Business

- a. Introduce new Civil Service Commissioner: James M. Maxwell
- b. Elect Commission Chair and Vice Chair for 2009
- c. Proposed update to Civil Service Policy with respect to abolishing eligibility lists. Delete reference to Affirmative Action Officer and replace with Equal Employment Officer
- d. Consider placing time limits on public comment on items not listed on the agenda

VIII. Reports

- a. Draft Annual Report for the Year 2008
- b. Adopt Delegated Classification Actions
- c. Receive Employment Services Division Workload Report
- d. Receive Provisional Appointment Report
- e. Civil Service 2009 Schedule of Meetings

IX. Correspondence Items

- a. Board of Supervisors' appointment of new Civil Service Commissioner, James M. Maxwell, dated December 9, 2008 for a term to expire Dec. 31, 2011
- b. Letter of resignation, tendered November 18, 2008, from Commissioner Barsi

XI. Adjournment

Next Quarterly Commission Meeting: Thursday, April 16, 2009

Meeting Announcements

The Commission will receive Oral Communications prior to regularly scheduled action items. Any person may address the Commission on any item of interest to the public, before or during the Commission's consideration of the item, restricted to three minutes per individual, provided that no action shall be taken on any item not appearing on the agenda. Commissioners may choose to follow up at a later time, either individually or on a subsequent Civil Service Commission agenda.

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors' Chambers are located in an accessible facility. If you wish to attend this meeting and you will require special assistance in order to participate, please contact Laurie Hill at 454-2948 (TDD number 454-2123) at least 72 hours in advance of the meeting in order to make arrangements. As a courtesy to those affected, please attend the meeting smoke and scent free.

Action Items Will Be Heard According to the Agenda Schedule

Civil Service Commission Minutes
Thursday, November 20, 2008

The Civil Service Commission held a quarterly meeting on Thursday, November 20, 2008 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California. The regularly scheduled quarterly meeting of October 16, 2008 was continued to November 20 for lack of a quorum.

ORDER OF BUSINESS

Commissioners received copies of the Order to Show Cause, dated Nov. 12, 2008 and Response to Order to Show Cause dated Nov. 14, 2008 regarding a disciplinary appeal hearing matter.

1. Call to Order: Vice Chair Gordon called the meeting to order at 5: 50 p.m.
2. Attendance: Commissioners present: Vice Chair Jack Gordon, Judy Jones, Robert Taren and newly appointed Olivia Madrigal. Commissioner Patricia Fink resigned Oct. 9, 2008. Michael Barsi resigned on November 18, 2008. Staff present: Michael J. McDougall, Personnel Director, Ajita Patel, Deputy Director, and Laurie Hill, staff to the Commission.
3. Approval of Minutes: The minutes of the July 17, 2008 meeting were approved as amended by Commissioner Jones: 4-0. Page 4 should read Commission "staffed" by Personnel Department.
4. Additions to the Agenda: Reviewed employee representative's response to the Commission's Order to Show Cause for failure to appear at the November 12 scheduled appeal hearing. The Secretary said that she informed Betsy Allen, Assistant County Counsel at 3:50 pm that Mr. Cohn planned to appear at this meeting regarding his request to reschedule the appeal hearing. Ms. Allen responded that she could not attend with such short notice and would like to have the opportunity to respond to Mr. Cohn's arguments before the Commission makes a decision. Mr. Cohn said that he had the wrong hearing date on his calendar. The Commission met briefly in closed session and returned with the finding that they would reschedule the second day of the hearing.
5. Oral Communications:
 - a. Sharon Mitchell, employee, requested that the Commission's agenda on the website include referenced documents. Commission directed staff to review this request, implement where possible, and return with information regarding any additional costs.
 - b. Vincent LoFranco, employee, regarding his appeal to the County in hopes to return to work following an injury. Commission encouraged him to seek counsel. LoFranco expressed concerns about the Whistleblower program, claimed preferential hiring, and said that his job was threatened because he presented disciplinary letters to the Board. Commissioner Taren agreed that the Whistleblower Program was flawed; Chair Gordon added that the Board was

responsible for the Whistleblower program and that few counties had independent investigators. Chair Gordon told the employee that he was welcome to present evidence to the Commission of his preferential treatment or submit information through his representative.

- c. G. Richard Arnold, citizen, complained about red tags, the Planning Appeals Board, Whistleblower, and questioned the qualifications of the Planning Department staff. Commissioner Jones observed that the Board was addressing the Appeals Commission and Chair Gordon said that the Civil Service Commission is appointed by the Board.
 - d. Reverend Oracle, citizen, offered a copy of AB 717 and said that it prescribed the necessary qualifications for Building Inspectors, and claimed that personnel in the Planning Department are not certified. She cited the California Association of Code Enforcement Officers in Sacramento and questioned the qualifications of the County's Code Compliance Officers. She said that the Joint Legislation Audit Committee was a Whistleblower source for employees.
 - e. Clive Boustred, citizen, questioned the qualifications of the Sheriff's Department employees following a personal incident. Chair Gordon directed him to speak to the Sheriff.
 - f. Acting Chair Gordon, with support of the Commission, directed staff to return with copies of AB 717, and to report back as to whether the County's Building Inspectors met the requirements of their job specifications.
6. Secretary Report: Laurie Hill introduced new Commissioner, Olivia Madrigal, appointed by the Board on Nov. 18, 2008. She reported the resignation of Commissioner Barsi. She reminded Commissioners of their Ethic's training requirement once every two years. Commissioner Taren asked if the ethics training required by his legal profession met this requirement. Ms. Madrigal said she completed the course through Monterey County. Secretary asked Commission to provide copies of any training certificates. The Commission calendared day two for the appeal hearing discussed in the closed session. The appeal hearing originally calendared for December 3rd was cancelled.

7. Old Business:

- a. Response to the 2007-08 Grand Jury Report: Copy of the response was provided. Nancy Elliott noted that the whistleblower program required further analysis and expressed concern that the Commission's response did not address SEIU's concerns about confidentiality or anonymity and asked that the Commission follow up on this concern. After discussion, Commission Taren moved and Jones seconded, to draft a letter to the Board about the Commission's interest in an independent oversight for whistleblower complaints.
- b. Staff Report on Commission staffing: survey of comparable counties. Four of our comparable counties have a Civil Service Commission and all are staffed by Human Resources or Personnel. See staff report.
- c. Staff Report on how Counties handle personnel related complaints on Whistleblower Hotline: Seven of the eight counties did not have a Whistleblower Hotline. Solano County has a Hotline and they refer personnel related complaints to the Personnel Department or other appropriate authority for investigation. See



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310, SANTA CRUZ, CA 95060-4073
(831) 454-2600 FAX: (831) 454-2411 TDD: (831) 454-2123

January 15, 2009

Santa Cruz County Board of Supervisors
701 Ocean Street, Suit 521
Santa Cruz, CA 95060

DRAFT

Dear Supervisors,

Over the past year, several county employees and their representatives have come before the Civil Service Commission to express concerns about the county's whistleblower program. In response, the Commission formed an ad hoc committee to gather details regarding the employee's concerns.

As you know, the whistleblower program is managed by the Auditor's office and is designed to provide opportunity for the community and employees to report alleged misconduct or abuse within the county system. The program assumes anonymity for the reporting party. The Auditor's Office receives the whistleblower complaints and typically forwards them to the impacted department for investigation and resolution.

The employees who addressed the Commission believe that complaints forwarded directly to the impacted department make it easy for the department to identify the reporting party and they fear retaliation. They also assert that the process creates a barrier that discourages employees from reporting misconduct.

Service Employees International Union reported their dissatisfaction regarding the whistleblower program to the Grand Jury. The 2007-2008 Grand Jury's report concurred with the union's concerns about anonymity. The Grand Jury recommended that reporting parties be told that complaints are forwarded to the appropriate department head for action and encouraged the Board to create an independent body for whistleblower complaints.

On September 23, 2008, your Board approved changes to the Whistleblower Hotline policy clarifying that reports within the Hotline parameters will be investigated either by a staff person in the Auditor-Controller's office or will be forwarded to the appropriate Department Head for resolution.

The work of the Commission's ad hoc committee is now complete. The full Commission now recommends that your Board revisit the Grand Jury's recommendation to establish a body independent of county government to 1) serve as the first point of contact for whistleblower complaints, and 2) screen and forward complaint to the appropriate entity for investigation and resolution.

Respectfully submitted,

Jack Gordon, Acting Chair
Civil Service Commission

VI e.

staff report. Nancy Elliott added that the Commission's role was to oversee the activity of the Personnel Department and she felt that Personnel staffing of the Commission was a conflict. She asked about the frequency of Civil Service meetings, and the Commission directed staff to report back on the frequency of Civil Service meetings at our eight comparable counties.

- d. Commission directed staff to prepare certificates of recognition for Commissioners Fink and Barsi.
8. New Business: 2008 Annual Report: Request for input on future goals, and Commission agreed to provide any feedback by email.
9. Reports
 - a. Commission adopted the Delegated Classification report Reviewed the budget actions and Deputy Director responded to questions regarding layoffs. Moved by Jones and seconded by Taren Adopted: 4-0.
 - b. Commission received the Employment Services Workload report.
 - c. Commission received the Provisional Appointment Report. Nancy Elliott offered a distinction between extra help and provisional appointments. Commissioner Taren wanted to know how many provisional appointees become regular employees and the Commission asked to add that information semiannually to this report.
10. Received Correspondence Items
 - a. Board of Supervisors' Sept. 23, 2008 Response to the 2007-08 Grand Jury Report.
 - b. Memo from Board Chair 2008 Annual Report Reminder.
 - c. Board of Supervisors' Sept. 23, 2008 Auditor's report on the Whistleblower Hotline.
11. Adjournment: There being no other business or public comment, the quarterly meeting was adjourned at 7:29 p.m.

Respectfully submitted,

Laurie Hill, Staff to the Commission

Laurie Hill

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County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSAN MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

APPROVED AND FILED
BOARD OF SUPERVISORS

September 11, 2008

DATE: September 23, 2008

COUNTY OF SANTA CRUZ

AGENDA: September 23, 2008

SUSAN A. MAURIELLO

EX-OFFICIO CLERK OF THE BOARD

Board of Supervisors
County of Santa Cruz
701 Ocean Street

BY Sharon Mitchell DEPUTY

Santa Cruz, California 95060

Response to the 2007-08 Grand Jury Report

Dear Members of the Board:

Attached for your approval are the proposed responses to the findings and recommendations contained in the 2007-08 Final Report from the Santa Cruz Grand Jury pertaining to matters under the control of the Board of Supervisors. The response comprises the required responses of the Planning Department, the Probation Department, General Services, the Personnel Department, the Health Services Agency, the Civil Service Commission and the Fire Department Advisory Commission. The Auditor-Controller and the Sheriff-Coroner have responded separately to this year's Final Report.

We would like to thank the members of the Grand Jury for their hard work on behalf of the residents of Santa Cruz County.

IT IS THEREFORE RECOMMENDED THAT YOUR BOARD approve the attached response to the findings and recommendations in the 2007-08 Grand Jury Final Report and request the Chairperson to forward the County's response to the Presiding Judge with a copy to the Grand Jury.

Very truly yours,

Susan Mauriello
County Administrative Officer

cc:

- Auditor-Controller
- County Fire
- General Services Department
- Health Services Agency
- Personnel Department
- Planning Department

- Probation Department
- Sheriff-Coroner
- Civil Service Commission ✓
- Fire Department Advisory Commission

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IX a.



Santa Cruz County Board of Supervisors

Response to

Grand Jury 2007-2008 Final Report

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Code Compliance Enforcement

Findings

2. County code violations do not always result in enforcement action.
- The Planning Department documents some violations but does not enforce them, for example, violations of residential property fence height limits.

County Response: Partially agree.

In certain, limited situations such as side or rear yard fences that are slightly over the maximum height, no enforcement action is taken due to workload/caseload issues. Enforcement action for other minor violations may be limited to the issuance of a Notice of Violation (Red-tag) and recordation of the Notice of Violation on the property title. The Notice of Violation must be addressed when the property is sold or refinanced or when a permit is required for something else.

- Some enforcement decisions are based upon Board of Supervisors' policy, such as the 2002 board policy specifying that structures built pre-1980 without permit will not be subject to enforcement.

County Response: Partially agree.

This policy directive is followed, but pertains solely to non-habitable structures.

- "No enforcement" is one complaint classification category in HANSEN®. Between March 29, 2007, and February 7, 2008, 11 percent of "no enforcement" decisions were based on policy adopted by the board; the remaining 89 percent were decided within the Planning Department without clear policy guidelines.

County Response: Disagree

A portion of these "no enforcement" designations were open Service Requests (complaints) that had not yet been resolved. The Code Compliance staff initially selected "no enforcement" in the Hansen system for complaints that did not immediately result in the issuance of a Notice of Violation. It is common for a Code Compliance Investigator to conduct a site inspection and need to perform additional review of office records before determining whether, in fact, a violation exists.

The remainder of the Service Requests referred to were actually resolved, with no further action, using the "no enforcement" designation. During the deliberations that ultimately led to adoption of the policy regarding structures built without permits prior to 1980, the Planning Department informed the Board that there is a category of violations that are so minor that no enforcement action on the part of the County is warranted. Planning Department management staff is involved in the decision-making process for each of the Service Requests that result in resolution using the "no enforcement action" coding. Examples of these determinations include side or

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Santa Cruz County Response to 2007-2008 Final Grand Jury Report
Code Compliance Enforcement

rear yard fences that are a few inches over height, or a minor setback encroachment of a deck that would not otherwise require a Building Permit.

3. There is no formal policy requiring county building inspectors or code compliance investigators to report code violations they might chance upon.
 - The City of Watsonville requires home maintenance compliance, and its inspectors report violations they happen to see.
 - The City of Santa Cruz expects its staff to report obvious violations it encounters as a matter of policy.

County Response: Disagree

The Planning Department Procedures Manual contains a Section related to the reporting of code violations by staff. That procedure, established in 2006, requires that certain types of violations be reported to the Code Compliance Section if encountered by any departmental employee during the course of their work. These include obvious and serious health and/or safety violations, significant environmental violations, and construction in-progress. The procedure contains specific definitions to provide further guidance to staff related to filing a code compliance complaint.

5. It appears to be technically feasible to access the public information contained in the code violation database and there is a plan to implement public online access before the end of 2009. Currently, members of the public wishing to learn the status of a code violation must telephone or visit the Planning Department.

County Response: Agree.

12. To help reduce the overall workload, follow-up with complainants is generally limited to a single written acknowledgment that the complaint has been received. Also the Planning Department does not take any enforcement action against some low-priority violations or investigate anonymous complaints.

County Response: Partially agree

In addition to the written acknowledgment of the complaint, code enforcement staff frequently answer questions from complainants about the status of a case throughout the enforcement process. In addition, our Compliance-by-Mail Program requires the original complainant to verify that a violation has been in fact been resolved following receipt of a declaration from the property owner stating that the violation has been corrected. Planning staff makes contact with the complainant to verify resolution. Staff is also investigating whether it will be possible, within the Hansen system, to allow complainants to access the status of their code complaints on-line.

14. Despite two requests, the Grand Jury was not provided with precise data describing the size of the backlog of unresolved code compliance complaints or the rate at which this backlog is growing. One estimate provided was that for every 100 complaints entering the system 80 were being resolved, leaving 20 to accrue to the existing backlog. Based on this estimate and the annual number of complaints, the backlog of unresolved complaints would grow by about 150 a year.

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Santa Cruz County Response to 2007-2008 Final Grand Jury Report
Code Compliance Enforcement

County Response: Disagree

We believe that the Department has now provided all information requested by the Grand Jury related to their investigation. There was an initial misunderstanding as to whether such a request was related to code compliance cases that reside in the older, ALUS system or in Hansen. Information on this topic of the backlog does exist for both systems and has since been provided to the Grand Jury.

There has been a dramatic reduction in the number of unresolved cases since the beginning of 2008 due, in large part, to the audit of the department's records related to the transition to the Hansen system. In addition, the department has implemented a systematic strategy for addressing the backlog and is confident that further reductions will occur.

16. In 2003, the Planning Department committed to the Board of Supervisors to develop written procedures for using the HANSEN® system. The code compliance group established process mileposts and created a detailed flow chart, but there is no employee procedures manual for handling complaints.

County Response: Disagree

The Grand Jury was provided with a high level summary page that represents the milestone flow within the Code Violation case type. This summary page was excerpted from a detailed user's manual that guides users through each milestone of a code case, from intake to completion. This manual, over 120 pages in length, was developed in July of 2007 and was distributed to each of the Code Compliance staff to assist them in their transition to using the Hansen system.

18. The Planning Department has requested at least 12 data management reports. As of April 11, 2008, only six of the reports originally requested the previous December were completed.

County Response: Partially agree

Initially, the development of management and other system reports was a joint undertaking by the Planning Department and the County Information Services Department. However, after several months, it became clear that the development of these reports required a stronger technical background, and the Information Services Department took the lead in getting these reports into production. This resulted in some delays, but that has since changed.

The Planning Department has been working closely with the Information Services Department on the development of numerous reports utilizing the information contained within the Hansen system. These reports fall into three categories: letters and forms generated by the system, information related to Service Requests, and information related to Cases. To date, seventeen of these reports have been developed and are in use. Of these, nine fall into the category of "data management reports."

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The remaining reports will be completed by Fall of 2008. In addition to these programmed reports, a great deal of management information can be generated on-demand using Hansen's search and reporting function that are built into the software.

19. The Planning Department has not asked for a routinely-generated report listing unresolved cases chronologically, with the oldest first.

County Response: Disagree

It is true that the department does not get a listing of unresolved cases by the age of the case, because that is not how the caseload is managed: the oldest cases are not necessarily the most important. The department does track cases to ensure that appropriate actions are taken at the various stages of the enforcement process.

The Planning Department receives reports for various milestones within the Hansen system to ensure that cases are moving forward according to their established business practices. The department receives reports listing unresolved Service Requests to ensure that new complaints do not remain open ended. The department has requested a report listing cases where a red tag has been issued and the Notice of Violation has not been recorded on the property title within 35 days of the mailing of that Notice. Similarly, the department has requested a notification report when 60 days have elapsed since recordation of the Notice of Violation and that, if the violation has not been corrected, a stipulation must be developed and sent to the property owner specifying required compliance periods and penalties. Finally, the department has requested a report indicating the current milestone of all cases and number of days spent in that milestone. The report will be able to be sorted in any number of ways, including chronologically.

Recommendations

1. The Planning Department should:
 - remove responsibilities other than code enforcement from existing code compliance staff.

County Response: Has been implemented

The temporary reassignment of one of our Code Investigators to assist in the training of a new fiscal person was the result of unprecedented turnover in our fiscal division and the need to train incoming accounting personnel to support the Code program. This training has been completed and the individual has returned full time to Code Investigations.

In addition, all of the Planning Technicians in the Department, including the two staff presently assigned to our Code Program, assist in staffing the General Information Desk that is an integral part of our public counter operation. This time commitment ranges from 2-10 hours a week. While this assignment does divert a few hours away from the Code Program, it also ensures that Code staff are kept

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Santa Cruz County Response to 2007-2008 Final Grand Jury Report
Code Compliance Enforcement

aware of all of the ongoing changes at our building and zoning counters, and also places them in a position to suggest operational changes that improve the interactions between code staff, counter staff, and property owners trying to resolve their violation(s). This arrangement will remain in place for the foreseeable future.

- recruit and train volunteers to assist the code compliance group.

County Response: Will not be implemented

With the reassignment of an additional Planning Technician to the Code Compliance Section, sufficient staff resources are in place to assist the existing Investigators with caseload management. Two Planning Technicians assist the Investigators with in-office research and preparation of draft stipulated agreements and case hearing packets. It would not be appropriate to use volunteers to act as Code Investigators due to the technical training and expertise that is required to perform the job.

- consider expanding the compliance-by-mail program to include additional low priority violations.

County Response: Requires further analysis

The compliance-by-mail program is used for violations that do not require issuance of a permit or a field investigation to verify the existence of a violation. In addition, correction of the violation must be able to be verified by the complainant. Initially, the Program was limited to illegal occupation of trailers and RV's. In the last year, it was expanded to include certain animal keeping violations. We are currently evaluating whether this approach to code enforcement can be further expanded and will implement this expansion, if deemed appropriate, no later than the end of the 2008 calendar year.

- create a list of code violations not currently being enforced and determine if any of the most commonly received complaints represent violations that can be added to the list.

County Response: Requires further analysis

Certain minor code violations may not warrant enforcement action. Quite often, factors specific to the particular situation are taken into account when making a determination as to whether or not enforcement action will be taken. The Department will evaluate the range of minor violations that it encounters to determine whether, regardless of other factors, any of them qualify for such treatment. This evaluation will be completed in early 2009.

2. The Planning Department should
 - enter data into the HANSEN® system daily, no longer than two days after receipt.

County Response: Has been implemented.

Santa Cruz County Response to 2007-2008 Final Grand Jury Report
Code Compliance Enforcement

- ensure that a code compliance supervisor reviews service requests (HANSEN®'s terminology for complaints) for accurate data entry on a regular basis. If errors are encountered, additional staff training should be provided.

County Response: Has been implemented.

- generate monthly reports that detail the total number of code complaints, the number deemed valid, how many were resolved, and the size of unresolved complaint backlog. These reports should be available for review at any time by the Planning Director and the Board of Supervisors.

County Response: Has been implemented.

This information may be viewed "on demand" by any user of the Hansen system.

- create a monthly report listing all unresolved complaints in reverse order by date. These reports should be reviewed by code compliance staff monthly and by the Planning Director quarterly.

County Response: Has been implemented.

- make every effort to promptly finalize complaints to avoid building an unmanageable backlog.

County Response: Has been implemented.

3. To create consistency among code compliance staff, Planning Department management should provide a detailed, written procedures manual, including targets for the amount of time allowed for each step in the complaint resolution process.

County Response: Has been implemented.

Handpicked for the Job?

Findings:

5. Santa Cruz County code charges the Civil Service Commission with the responsibility for the process of approving provisional appointments. This responsibility has been delegated to the Personnel Director.

County Response: Agree.

10. This Grand Jury was unable to confirm any violations of County nepotism policy.

County Response: Agree.

13. County code charges the Civil Service Commission with assuring that, whenever possible, merit employment principles are followed.

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County Response: Agree.

21. Department heads are given six months to report the results of their investigations to the Auditor-Controller's Office. The CAO and Personnel Director may also be notified about the complaints.

County Response: Agree

Recommendations

1. County management and SEIU should meet regularly to review specific employee complaints concerning hiring practices.

County Response: Has been implemented.

The Personnel Department's labor relations division meets on an on-going basis with SEIU regarding hiring practices and other matters. Civil Service Commission rules govern examinations and appointments in the hiring process and contain appeal procedures for employee complaints. The Personnel Department will, however, discuss this recommendation with SEIU in hopes of improving communication, especially in the context of verifiable employee complaints that may be outside the scope of standard appeal venues.

2. The Civil Service Commission should periodically review individual provisional appointments to ensure the system is not being abused.

County Response: Has been implemented.

The first report on provisional appointments was issued to the Commission at its July 17, 2008 quarterly meeting. The Commission will now receive these reports quarterly.

3. The Board of Supervisors should direct the Personnel Department to develop and maintain a record of all first and second degree relatives employed by the County and to provide a report on a regular basis to the Civil Service Commission.

County Response: Will not be implemented

The Personnel Department does not require disclosure or collect data regarding family relationships on job applications and does not require employees to routinely disclose changes in relationships during the course of their employment. The collection of such data could be considered a violation of State or Federal confidentiality protections or prohibitions against discrimination based upon marital, family or other protected status.

The County's nepotism policy prevents department heads from hiring their spouses, parents, children, grandchildren, brothers or sisters (first or second degree relatives) in paid positions within their own departments. Additionally, no person who is related to a manager may be appointed or assigned to a position

which is in direct reporting relationship or within supervisory lines of authority to such a manager or supervisor. Family relationship data is necessary in hiring decisions related to department heads and other subordinate/supervisory relationships. However, the County's current nepotism rules do not prohibit the hiring of first or second degree relatives who are unrelated to the department head and are not in the same chain of supervision as their first or second degree relatives.

4. The Civil Service Commission should permanently create a standing committee consisting of two commissioners to hear and investigate personnel and hiring practice complaints. Upon conclusion of each of its investigations, this committee should report its findings and recommendations to the full commission.

County Response: Will not be implemented.

In 2007 the Civil Service Commission created a temporary *ad hoc* committee, consisting of two commissioners, to hear complaints from SEIU members.

The Brown Act (Government Code Section 54952), County Code (2.46.060), and Civil Service rules (Section 130 I. 1. A.) restrict the Civil Service Commission's ability to create a standing committee and still maintain a confidential forum for county employee complaints.

The meetings of a standing committee composed of less than a quorum of the commission would be subject to the notice, agenda, and public participation requirements of the Ralph M. Brown Act. It is not possible under the Brown Act to set up a permanent standing committee that could accomplish a confidential forum for complaints of County employees.

5. The County website's search function should be updated so that typing in the keyword "whistleblower" results in a path to the hotline information.

County Response: Has been implemented.

6. Effective immediately, all employees complaining to the whistleblower program should receive full disclosure regarding the details of the resolution process for their particular complaint. Specifically, they should be told if their complaint will be forwarded to a department head for action.

County Response: Has not yet been implemented, but will be implemented in the future

Changes have been made to the information provided to employees who telephone the hotline and speak to a staff person. Changes are in the process of being made to the English and Spanish versions of the voicemail and website information. Changes will be implemented by November 30, 2008.

7. Preliminary results of whistleblower investigations should be required within 60 days of the original complaint.

County Response: Has been implemented.

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This requirement is in effect for reports received after August 15, 2008.

8. The Board of Supervisors is encouraged to create a body independent of county government to serve as the first point of contact for all whistleblower complaints; from there they can be forwarded to the appropriate entity for investigation and resolution.

County Response: Requires further analysis

The Auditor-Controller will review suggestions for modifying the Whistleblower Hotline and will make appropriate recommendations to the Board.

The Civil Service Commission's response to the Grand Jury Report is provided as Attachment A.

A Promise Kept

Findings:

2. While the County has pursued a goal of consolidating categorical health plans and simplifying eligibility requirements, there is no published plan or public commission in place to oversee it.

County Response: Disagree.

The Public Health Commission is charged with overseeing the operation of preventative health programs, medical clinics and medical programs, which includes review of eligibility requirements and categorical health plans.

57. The recruitment of allied health practitioners and full-time county physicians is often a challenge.

County Response: Agree.

The Health Services Agency and the Personnel Department have developed a number of successful initiatives to increase the County's ability to recruit for various classes of health practitioners and physicians.

Recommendations

1. The Santa Cruz County Health Services Agency should continue to partner closely with the Central Coast Alliance for Health.

County Response: Has been implemented.

The Health Services Agency has a very close partnership with the Central Coast Alliance for Health and will continue working closely together.

2. The Santa Cruz County Health Services Agency should continue to expand local outreach and enrollment resources for low-income persons in the county by continuing to partner with local agencies, both public and private.

County Response: Has been implemented.

The Health Services Agency will continue to expand outreach and enrollment resources throughout the County.

3. The Santa Cruz County Health Services Agency should consider expanding contracts with the Alliance for other categorical health program administration, where and when appropriate.

County Response: Will be implemented.

The Health Services Agency will continue to work with the Alliance in considering future expansion.

4. If the Health Services Agency is unable to transfer other appropriate categorical health program administration to the Alliance, the agency should adopt the Alliance's principles of practice for categorical health program administration.

County Response: Has been implemented.

Although the meaning of "categorical health program administration" is unclear, the agency will continue to work closely with the Alliance on all programs allowed within the law.

5. If First 5 no longer supports it, the Coalition for Health Care Outreach should be supported in the budget of the Health Services Agency.

County Response: Will not be implemented.

Although the Coalition for Health Care Outreach is very important, unless funding is identified to replace the \$300,000 First Five contribution, such support cannot be guaranteed due to other competing high priority needs.

6. The Health Services Agency should encourage community clinics to accurately communicate clinic hours to the public.

County Response: Has been implemented and will continue to be coordinated with the Safety Net Clinic Coalition.

7. In light of anticipated cuts in state and county funding, the Grand Jury urges both the Board of Supervisors and agencies providing dental care for low-income residents to identify and pursue alternate sources of funding, such as grants and gifts.

County Response: Has been implemented.

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The Health Service Agency is aggressively working to identify and obtain grants and alternative funding for dental care.

11. The Grand Jury recommends that the Health Services Agency continue to build the network of mental health services countywide.

County Response: Has been implemented.

12. Staff development, including improved training and new methods for reviewing program results, would increase the effectiveness of the Health Services Agency.

County Response: Has been implemented.

HSA will further expand staff development as additional funding becomes available.

13. The Grand Jury recommends that the Board of Supervisors support coordination of the various funding streams by the Health Services Agency so that available funds can be used to match the diverse needs of the clients.

County Response: Has been implemented.

HSA will continue efforts to coordinate and increase various funding streams to meet the needs of our clients.

14. The Board of Supervisors should ensure adequate funding for patients' employment services, which play an important part in mental health treatment.

County Response: Has been implemented.

The Board of Supervisors restored \$50,000 for employment services in the 2008-09 budget.

15. It would be beneficial for the Health Services Agency to continue developing mental health outreach and education programs to provide even more community social support for recovering patients, so they can feel welcome in their communities. Support resources can include churches and neighborhood organizations.

County Response: Has been implemented.

HSA will continue developing outreach and educational programs as funding becomes available.

16. The Grand Jury urges the Health Services Agency to continue to seek grants and other alternative sources for funds to pay competitive salaries to health professionals.

County Response: Has been implemented and will continue to be a high priority for the Health Services Department.

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Civil Service Commission Response to the Grand Jury Report

August 13, 2008

Findings

Provisional Hiring Practices

5. Santa Cruz County code charges the Civil Service Commission with the responsibility for the process of approving provisional appointments. This responsibility has been delegated to the Personnel Director.

Partially agree. Specifically, Santa Cruz County Code Section 3.28.050 provides for provisional appointments and Civil Service Rule 130 Section II states that "The Commission hereby delegates to the Personnel Director the authority to administer the County Civil Service system in accordance with County Code Chapter 3.04, these rules and order of the Commission."

Nepotism and Favoritism

10. This Grand Jury was unable to confirm any violations of County nepotism policy.

Agree -- The Commission accepts the statement that the Grand Jury was unable to confirm any violations of the County nepotism policy.

13. County code charges the Civil Service Commission with assuring that, whenever possible, merit employment principles are followed.

Agree - County code section 2.46.080 provides that the Civil Service Commission assure that employees within the civil service system are selected, promoted, evaluated and retained within merit employment principles.

Recommendations

Provisional Hiring Practices

2. The Civil Service Commission should periodically review individual provisional appointments to ensure the system is not being abused.

Has been implemented. The first provisional appointment report was initiated by the Commission and received at their July 2008 quarterly meeting. The Commission directed staff to provide provisional appointment reports at each quarterly meeting.

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Nepotism and Favoritism

4. The Civil Service Commission should permanently create a standing committee consisting of two commissioners to hear and investigate personnel and hiring practice complaints. Upon conclusion of each of its investigations, this committee should report its findings and recommendations to the full commission.

Will not be implemented.

In 2007 the Civil Service Commission created a temporary *ad hoc* committee, consisting of two commissioners, to hear complaints from SEIU members.

The Brown Act (Government Code Section 54952), County Code (2.46.060), and Civil Service rules (Section 130 I. 1. A.) restrict the Civil Service Commission's ability to create a standing committee and still maintain a confidential forum for county employee complaints.

The meetings of a standing committee composed of less than a quorum of the commission would be subject to the notice, agenda, and public participation requirements of the Ralph M. Brown Act. It is not possible under the Brown Act to set up a permanent standing committee that could accomplish a confidential forum for complaints of County employees.

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ORIGINAL



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310
SANTA CRUZ, CA 95060

TELEPHONE: (831) 454-2600
FAX: (831) 454-2411
TDD: (831) 454-2123

CIVIL SERVICE COMMISSION AGENDA NOTICE OF PUBLIC MEETING

Location: Board of Supervisors' Chambers
County Government Center
701 Ocean Street, Fifth Floor
Santa Cruz, CA 95060

Date and Time: Thursday, October 16, 2008 at 5:45

A regular meeting of the Civil Service Commission has been set for **5:45 p.m., Thursday, October 16, 2008** at the County Government Center, Board of Supervisors' Chambers, 701 Ocean Street, Fifth Floor, Santa Cruz, California.

This agenda is to invite you to participate in a public meeting of the Santa Cruz County Civil Service Commission. Please review the agenda for items of interest to you. You may come to the meeting and speak, or you may send a letter, which will be considered at the meeting. The letter should be addressed to the Personnel Director or Chair of the Civil Service Commission, and should reference the agenda date and specific items of interest to you.

AGENDA

- I. Call to Order
- II. Attendance
- III. Approval of Minutes for July 17, 2008 meeting
- IV. Additions and Corrections to Agenda
- V. Oral Communications
 - a. Public Comment
 - b. Secretary's Report
 - Schedule appeal hearing
 - Reminder to renew ethics training and available resources
- VI. Old Business
 - a. Response to 2007-08 Grand Jury Report
 - b. Staff report on Commission staffing: survey of comparable counties

- c. Staff report on how Counties handle personnel related complaints on Whistleblower Hotline
- VII. New Business
 - a. Resignation of Commission Chair, Patricia Fink
 - b. Staff request for input for the 2008 Annual report to the Board
- VIII. Reports
 - a. Adopt Delegated Classification Actions
 - b. Receive Employment Services Division Workload Report
 - c. Receive Provisional Appointment Report
- IX. Correspondence Items
 - a. Board of Supervisors September 23, 2008 Response to the 2007-08 Grand Jury Report.
 - b. Memo from Board Chair Pirie 2008 Annual Report reminder
 - c. Board of Supervisors September 23, 2008 Auditor's report on the Whistleblower Hotline
 - d. Letter of resignation, tendered October 9, 2008, from Commissioner Fink
- X. Adjournment

Next Quarterly Commission Meeting: Thursday, January 15, 2008

The Commission will receive Oral Communications prior to regularly scheduled action items. Any person may address the Commission on any item of interest to the public, before or during the Commission's consideration of the item, restricted to three minutes per individual, provided that no action shall be taken on any item not appearing on the agenda. Commissioners may choose to follow up at a later time, either individually or on a subsequent Civil Service Commission agenda.

Meeting Announcement

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors' Chambers are located in an accessible facility. If you wish to attend this meeting and you will require special assistance in order to participate, please contact Laurie Hill at 454-2948 (TDD number 454-2123) at least 72 hours in advance of the meeting in order to make arrangements. As a courtesy to those affected, please attend the meeting smoke and scent free.

Action Items Will Be Heard According to the Agenda Schedule

Civil Service Commission Minutes
Thursday, July 17, 2008

The Civil Service Commission held a quarterly meeting on Thursday, July 17, 2008 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California.

ORDER OF BUSINESS

1. Call to Order: Vice Chair Gordon called the meeting to order at 5: 55 p.m.
2. Attendance: Commissioners present: Vice Chair Jack Gordon, Judy Jones, and Robert Taren. Absent Commissions: Chair Fink and Michael Barsi. Also present: Thornton Kontz, Commission's Attorney, Laurie Hill, staff to the Commission, and Michael J. McDougall, Personnel Director. Additional staff present: Nisha Patel, Christa Schleiner, and Kim Begley, and Betsy Allen. Nancy Elliott represented SEIU.
3. Approval of Minutes: The minutes of the April 17, 2008 meeting were approved 3-0.
4. Oral Communications:
 - a. Pruitt Tulley, former County Personnel employee, suggested updates to the County's Personnel Administrative policies and the completion of the provisional appointment policy. He gave the Commission a copy of Oakland's Whistleblower ordinance. He noted that the Commission reviews alternate staffing changes. He provided a letter to the Commission for their reading.
 - b. Rosa Valdivia, Child Support Services employee, said that the County has hired people without a competitive process, using alternative staffing to select their favorites. She pointed to her EEO complaint, the EEO response, and provided a copy to the Commission. She said that she asked for and did not receive support documentation for the alternate staffing in question. She asked for Commission input.
 - c. Nancy Elliott, SEIU, said there are other pathways to promotions and SEIU has only recently focused on provisional appointments to avoid merit based appointments.
 - d. Vincent LoFranco, Planning Department, shared a letter with the Commission, addressed to his department, asking for his job back. He said that "promotion only" recruitments are unfair and should be open to outside candidates. He complained about favoritism in hiring based on physical attraction. He said he was investigated as a result of a Whistleblower complaint, complained that such complaints go back to the department and suggested investigation of managers.
 - e. Acting Chair Gordon responded that he would like to know if other counties have an independent commission and how other counties staff their commissions. There are problems with the concept of this Commission as an investigative body. We can recommend to the Board such a role as it would be their decision to establish another independent group. Jones recommended further discussion under the Grand Jury report on Whistleblower program. Taren considered that some of the Commission's rules may be outdated.

5. Secretary Report: Laurie Hill noted the cancelled July 16 hearing, one appeal case pending, and checked Commissioners' calendars. She said that the Commission's biennial Conflict of Interest Code will be submitted to the Elections Department with no changes because it is included in the Personnel Department statement. Nisha Patel offered an update on the budget reductions and layoff process. 100 were deleted, 92 positions were filled, and meet and confer with the unions were underway. Notification letters were prepared, staff continues to work with employees to reduce the number of layoffs and many employees are scheduled to move to other positions.

6. Old Business:
 - a. New Personnel Director: Commissioner Jones introduced Michael J. McDougall. She said that she participated in the final selection interviews as the Commission's representative. McDougall was the Director of the Santa Cruz County Consolidated Emergency Communication Center, a highly regarded multi-service, multi-jurisdictional agency. McDougall recognized that he joins the County during trying times, noted the commitment of the Personnel staff, and thanked the Commission.
 - b. Provisional Appointment Report: The Commission received the provisional appointment report for 2007-2008. Commissioner Taren said that he had not met with Ad Hoc Committee member Barsi and noted the high proportion of provisional appointments. Commissioner Jones noted no patterns and will wait for the Ad hoc Committee review. Commissioner Gordon noted that most provisional appointments were made in the District Attorney's office, Health Services Agency and in Animal Services. Nisha Patel added that most appointments are made to positions that are hard to recruit for, including many licensed positions in Health Services. Elliott initiated a discussion comparing the provisional numbers in the Commission's report with those in the Grand Jury report. Staff assured the Commission that the same numbers were provided to both. Gordon said he viewed a provisional appointment for special project differently than the use of a provisional employee in a supervisory position. Elliott questioned why appointments are not made from lists and whether the system was being manipulated to avoid the competitive process. Gordon said that employees are clearly unhappy. Tully suggested that the Commission compare data from each department and compare the number of positions to provisional appointments. McDougall reported that he talked to the DA's office regarding provisional appointments and will continue talks with the remaining departments.

7. New Business: Grand Jury Report:

Jones noted that the Jury's Whistleblower program questions were addressed to the Board of Supervisors, not within the Commission's domain, and should be addressed by the responsible parties first.

Taren was concerned about the timing of the response. The Secretary referred to the deadlines in the letter from the CAO and how the report is compiled.

Elliott said that the Grand Jury found that provisional appointments are made within the Civil Service rules and that managers can give their preferred candidates an edge without

violating Civil Service rules. She said the rules are the Commission's responsibility, that impacted employees do not have a safe path to communicate their concerns to the Commission, and she asked for time to fix the problems. The Secretary offered that the Personnel department recommended quarterly provisional appointment reports.

Gordon said he wanted to review how other Counties staff their commissions and whether such Commissions are independent agencies. He considered the number of provisional appointments as a small percent of total County hires.

Jones suggested a response to Grand Jury Recommendation #2: that the Commission should receive provisional appointment reports from Personnel. She recommended that the Commission take the position that a standing committee, as defined in Recommendation #4, would be illegal. Counsel Kontz said that permanent standing committees meeting behind the scenes would violate the Brown Act.

Gordon added that the standing committee would be impractical and something that may not work for the Commission. It needs to be a person that responds directly to the Board, not the Commission.

Jones moved to respond to the Grand Jury report by the following:

Recommendation #2 Direct the Personnel Department to provide a quarterly report to review individual provisional appointments. Taren seconded the motion. Passed: 3-0

Recommendation #4: Jones moved to direct Counsel Kontz to prepare a legal response regarding open meeting requirements of a standing committee and to use this opinion as the foundation for for the Commission to say the recommendation will not be implemented. Taren seconded the motion. Passed: 3-0

Finding #5: Jones moved for partial agreement and to clarify that County code charges the commission with the process of approving provisional appointments and that Civil Service Rule delegates the responsibility to the Personnel Director. Passed 3-0

Finding #10: Gordon moved to agree that Grand Jury was unable to confirm any violation of the provisional appointments. Elliott expressed concern regarding the appointment of the previous personnel director's husband to a provisional appointment. Discussion followed and the Commission agreed to state that they agreed to accept the statement that the Grand Jury was unable to confirm any violation. Seconded by Taren, passed 3-0

Finding #13: Gordon moved to agree that the County Code charges the Civil Service Commission with this responsibility. Taren seconded, passed 3-0.

Gordon revisited his recommendation to have the Personnel department survey comparable counties regarding staffing of their Civil Service Commission. Taren found it problematic when the Whistleblower complaints go right back to the department that is the subject of the complaint. Jones asked to clarify if this is the Commission's responsibility or that of the Auditor's office. McDougall agreed to check in with the Auditor, survey other Counties re: the Whistleblower complaints and any independence investigation of such complaints. Elliott said she was concerned that the Commission is staffed by the department that it oversees.

Jones added that the Commission's charter makes the Commission accountable to the Personnel Department.

8. Reports
 - a. Commission adopted the Delegated Classification report Moved by Jones and seconded by Gordon Adopted: 3-0.
 - b. Commission received the Employment Services Workload report.
 - c. Commission received the Disciplinary report. Report distributed at the meeting included 13 actions

9. Received Correspondence Items
 - a. Letter from and Commission Chair's response to Morgan Koch.
 - b. Grand Jury Report entitled "Handpicked for the Job?"
 - c. Letter from Rosa Valdivia. Ms. Valdivia clarified that her listed correspondence was a complaint about alternate staffing. She considered it a defective hiring practice and wanted to know what to expect in response from the Commission. Jones noted a remaining second level of appeal. Commission Taren suggested that she wait for the response on the appeal and return if she still had concerns.
 - d. Letter from Susan Mauriello, CAO, regarding submittal of the Commission's response to the Grand Jury. Commissioner Gordon agreed to review the Secretary's draft response and Counsel Kontz agreed to submit opinion by August 1.

10. Adjournment: There being no other business or public comment, the quarterly meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Laurie Hill, Staff to the Commission

How do Santa Cruz County's comparable counties address personnel related complaints on the Whistleblower Hotline?

The attached chart represents the survey of our eight comparable counties that was conducted by the Auditor's office.

8 { The chart indicates that seven out of the eight counties do not have a "Whistleblower" program. Solano, the only county with a "Whistleblower Hotline" refers personnel related complaints to the Human Relations department or other appropriate authority for follow up or investigation.

Please refer to Correspondence Item C., the Auditor's report to the Board of Supervisors on the "Whistleblower Hotline". This item includes a survey response (Attachment D) from fifty-seven counties.

{ Forty-two of the fifty-seven counties surveyed do not have a "Whistleblower Hotline" or equivalent.

10/57 Of the ten counties with a "Whistleblower Hotline" only two have separate bodies that review the complaints. Los Angeles County refers complaints to County investigative staff. San Bernardino County refers complaints to a Fraud, Waste and Abuse Hotline Committee and generally, reports received are referred to the Department Head in the affected department.

The four remaining counties without a "Whistleblower Hotline" do have a "Whistleblower" process. The process is administered by Human Resources, Chief Administrative Office (CAO), or County Counsel with investigative options such as Department Head, CAO, and Personnel Director. San Diego County has an Office of Internal Affairs.

The Auditor's report to the Board also included a summary (Attachment G) of the various avenues available to employees to address employee-employer issues.

Santa Cruz County Comparable Counties

County Name	Is there a specific process for personnel related complaints?	How are these complaints managed through the Whistleblower Hotline (particularly "confidential" complaints)?	Is there a designated investigator or investigative body?	Is this person independent of any department?	How is the Civil Service Commission in the County staffed?
Contra Costa	N/A - no hotline				Contact person did not respond to this question
Marin	No	N/A	N/A	N/A	See print out
Monterey	N/A - no hotline				No Civil Service Commission
Napa	N/A - no hotline				Contact person did not respond to this question
San Mateo	No	N/A	N/A	N/A	Director of the Human Resources Department - Donna Vaillancourt (dvaillancourt@co.sanmat.ca.us)
Santa Clara	N/A - no hotline				Contact person did not respond to this question
Solano	Yes	Personnel complaints are forwarded to HR or the other appropriate authority (i.e EEO compliance officer etc.)	See previous answer	No	Contact person did not know
Sonoma	N/A - no hotline				Contact person did not respond to this question

VI b+c



COUNTY OF SANTA CRUZ

MARY JO WALKER, AUDITOR-CONTROLLER
701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073
(831) 454-2500 FAX (831) 454-2660

Edith Driscoll, Chief Deputy Auditor-Controller
Pam Silbaugh, Accounting Manager
Kathleen Hammons, Budget and Tax Manager
Mark Huett, Audit and Systems Manager

APPROVED AND FILED
BOARD OF SUPERVISORS
DATE: 9/23/08
COUNTY OF SANTA CRUZ
SUSAN A. MAURELLO
EX-OFFICIO CLERK OF THE BOARD
BY: *Susan Maurello*

September 9, 2008

Agenda Date: September 23, 2008

Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: REPORT BACK ON STATUS OF THE WHISTLEBLOWER HOTLINE

Dear Members of the Board:

On June 24, 2008, your Board directed this office to present to you a full report on the Whistleblower Hotline program giving the Board a chance to review the program and its processes as it has evolved since it was approved by the Board on January 11, 2005, and added to the County's Policy and Procedures Manual on June 21, 2005.

8 { Attached are several documents to assist you in gaining an understanding of the hotline including a Summary of the Santa Cruz County Whistleblower Hotline (Attachment A), a flowchart reflecting the decision process in responding to hotline reports (Attachment B), the original program outline presented on May 25, 2004 (Attachment C), and copies of the summary reports presented to your Board annually (Attachment E).

{ In addition, you requested information on what other counties do regarding Whistleblower Hotlines. We surveyed all California counties and have attached a chart of their responses. We received information on 57 counties (Attachment D), of which 10 have formal hotlines, 5 have processes or procedures in place but not a formal hotline and 42 do not have either. You will note that the chart reflects that Stanislaus County has a formal hotline specifically for reporting employee misconduct and no other hotline. I have attached their Board resolution #2006-130 to provide you with information regarding their policy (Attachment F).

Your Board's discussion on June 24, 2008, focused on the intent of the program approved in 2005. As you can see on page S 6-7 from the original program outline, paragraph two, it states:

The hotline will be available to report fraud, waste and abuse. The hotline will not answer ethical questions. Contacts may be referred to Personnel or Departments for follow-up if appropriate. The District Attorney will be alerted if fraud is discovered.

In addition, the last paragraph of the same page states:

The Whistleblower Hotline Program should be notified of any fraud or waste. The Whistleblower Hotline Program will act as a clearinghouse of information about fraud and waste in the County. The Program will track all contacts made and will see contacts through until satisfactory outcomes are achieved.

These statements about the hotline are true today and the last few years have given us the opportunity to create procedures that allow the hotline to meet this mission.

The attached flowchart (Attachment B) reflects the decision process used in responding to hotline reports. As reflected in Attachment B, an Auditor-Controller staff member does not personally perform the detailed investigation of each hotline report that is received. Upon receipt of the hotline report, an Auditor-Controller staff will perform preliminary research and if it is determined that the report is such a matter that is best investigated at the department level, the report is forwarded to the Department Head. The Department Head is provided with written guidance about the confidentiality of the issue as well as instructions to not identify the reporter (even if they later are able to determine who it might be) if the reporting party has asked to be kept anonymous. The Department Head is asked to complete their investigation and provide a final report to the Auditor-Controller within six months. Auditor-Controller staff then performs a review of the Department Head's research to determine if it is reasonable and sufficient to resolve the reported issue. If it is not Auditor-Controller staff works with the Department Head until the initial hotline report can be closed out.

60 days

The decision process described above is applied to all hotline reports including those reporting issues of alleged employee misconduct or employee-employer issues. If the report does not fall within the scope of the hotline it is not responded to or forwarded elsewhere. To ensure that employees are aware of their other reporting paths to report their concerns, the Whistleblower Hotline Website and documentation will be updated this fall with a statement that reminds the employees of the following alternative ways to report a concern if applicable: 1) report the issue to their Supervisor or Department Head, 2) contact the Equal Employment Opportunity Commission office for concerns of discrimination or harassment, 3) review their Memorandum of Understanding for applicable grievance procedures. Attachment G is a summary of the various avenues for addressing employee-employer issues.

Whistleblower Hotline Program
September 23, 2008

The annual statistical reports your Board received are attached for your review. In addition I have summarized them here based upon response type.

Calendar Year report	Investigated primarily by Auditor-Controller's Office	Involved Department Head in report investigation
2005	2	20
2006	0	18
2007	8	10

It is important to discuss a challenge we and other Whistleblower Hotlines face; that of obtaining sufficient, relevant data to research a report. It is not uncommon for us to receive a report that is only two or three sentences. Without the involvement of the Department Heads in the resolution and research of many reports, we would not be able to adequately research these reports. The Department Heads have been 100% cooperative in accepting reports (no matter their length) and performing investigations. I appreciate and thank them for their cooperation.

As you are aware we proposed a change in the wording of the current County Policies and Procedures Manual to more adequately reflect the actual investigation process in place today and as was intended in 2005 (Attachment H). This wording change is supported by the recently released 2007-2008 Grand Jury Report related to the Whistleblower Hotline. In the section "Hand Picked for the Job?" pages 9-14, the Grand Jury recommended we notify employees reporting to the Hotline as to the details of the resolution process for their particular complaint and that they should be told if their complaint will be forwarded to a Department Head for action. An accurate reflection of the Hotline's investigative process in the County Policies and Procedures Manual will support this disclosure to employees.

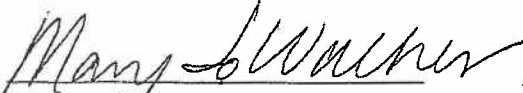
The Whistleblower Hotline has become a successful addition to the County's internal controls, due in part to the willingness of County departments and other agencies to investigate and report back on their findings.

It is therefore RECOMMENDED that the Board of Supervisors:


1. Accept and file this report on the Whistleblower Hotline.
2. Approve the wording changes proposed on June 24, 2008, (Attachment H) to the County's Policy and Procedures Manual as they relate to the Whistleblower Hotline.

Whistleblower Hotline Program
September 23, 2008

Sincerely,


Mary Jo Walker
Auditor-Controller

RECOMMENDED:


SUSAN A. MAURIELLO
County Administrative Officer

Cc: Auditor-Controller
County Administrative Officer
County Counsel
Personnel Director

Attachments:

Attachment A-Summary of the Santa Cruz County Whistleblower Hotline
Attachment B-Flowchart of the decision process when responding to Hotline reports
Attachment C-Original program outline presented to the Board on May 25, 2004
Attachment D-Schedule of County Whistleblower Hotlines
Attachment E-Statistical reports presented to your Board for 2005, 2006 and 2007
Attachment F-Stanislaus County Whistleblower policy regarding employee misconduct
Attachment G-Summary of the avenues for addressing employee-employer issues
Attachment H-Proposed changes to the County Policy and Procedures Manual

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT
IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE
OFFICE ATTEST MY HAND AND SEAL THIS 23 DAY
OF October 20 08
SUSAN A. MAURIELLO, COUNTY ADMINISTRATIVE OFFICER
AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, CALIFORNIA.


DEPUTY

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**Summary of the Santa Cruz County Whistleblower Hotline
As of July 2008**

Purpose

As stated in the County's Policy and Procedures Manual, Title VII, Section 700-Whistleblower Hotline, "The Whistleblower Hotline is intended for Santa Cruz County residents, vendors, contractors and employees to report fraud, waste and abuse. The reported incident must relate to the County and include fraudulent activity by Santa Cruz government employees; misuse of County resources by vendors, contractors or County employees; and significant violations of County policy."

History

On May 25, 2004, at the request of the Board of Supervisors, then Auditor-Controller, Mr. Gary Knutson, presented to the Board a Whistleblower Hotline Program outline. Upon review of the outline, the Board directed the County Administrative Officer to work with County Counsel, the District Attorney, and the Personnel Department to implement the proposed program as outlined and report back on or before January 11, 2005. Mr. Knutson did so and he laid the foundation for the program we have in place today. Since that time the Auditor-Controller has annually presented to the Board statistical information related to the types and number of reports received via the Whistleblower Hotline.

Program

As stated in the Policy and Procedures Manual, communications received are confidential and can be anonymous if requested by the reporter. Reports related to building code and planning department violations cannot be accepted from anonymous sources and are re-directed when possible to the Planning Department. Reports can be made in English or Spanish.

Ways to Report

Reports are accepted via the mail, the telephone, or the hotline website's online reporting form.

- The hotline address is 701 Ocean Street, Suite 100, Santa Cruz, CA 95060.
- The hotline can be called at 831-454-3333. The caller may leave a message or speak to one of two designated staff persons if available. If unavailable, the call routes to a confidential voicemail box with reporting instructions.
- An online form exists at the hotline website: www.co.santa-cruz.ca.us/whistleblower.htm.

Procedures

Each telephone call is answered using a script that requires the call be recorded unless the reporting party declines. Report-taking forms are completed by an Auditor-Controller staff person who uses a prepared script to provide for consistent and accurate receiving of data to the extent the reporting party is willing or able to provide it. An online report form is provided for parties who report using that method.

Standard procedures are also in place regarding how each report is handled once received, how the report is safeguarded and later filed, and how a database is used to track all reports received.

Response to Reports

Each report is reviewed by the Auditor-Controller and/or the Deputy Auditor-Controller to determine if it meets the requirements of the program as stated in the County's Policy and Procedures Manual, Title VII, Section 700-Whistleblower Hotline. Each report is unique and responded to individually. A chart is attached outlining the process adopted by the Auditor-Controller to assist in responding to each report.

10

Decision Process when Responding to a Hotline Report

Report Received
 Phone
 E-mail
 Letter
 In person

Does the report meet hotline requirements of fraud, waste, abuse, or significant violations of County policy?

Yes
 No

Is there a process already in place to address this problem?

Yes

No

Personnel

Send to Personnel Department

Send to Department head to investigate

CC other personnel staff for risk management or harassment reports

Public Assistance related

Send to Human Services Department to investigate

Planning & Code Enforcement

Send to Planning Department to investigate
 Do not follow up

Other

Is it against a department head?

Yes

No

Each case is unique but will include a cc to Department Head's supervisor-either Board of Supervisors or CAO

Send to Department Head to investigate

Is it fiscal or internal control related?

Yes

No

Assign to A-C staff to work with Department Head

Send to Department Head to investigate

Each Department Head is asked to confidentially investigate and respond back within 6 months.

The Auditor-Controller's Office receives the response and reviews it. Each case is unique, but the case is either closed or further investigated based upon the facts of the case and the Department's research and resolution.

The Auditor-Controller's Office provides an annual report to the Board of Supervisors of Whistleblower Hotline activity.

Whistleblower



COUNTY OF SANTA CRUZ

AUDITOR-CONTROLLER'S OFFICE

701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073
(831) 454-2500 FAX: (831) 454-2660

GARY A. KNUTSON, AUDITOR-CONTROLLER

Chief Deputy Auditor-Controllers
Pam Silbaugh, Accounting
Suzanne Young, Audit and Systems
Kathleen Hammons, Budget and Tax

Board Agenda: Budget Hearings

May 25, 2004

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: WHISTLEBLOWERHOTLINEPROGRAM

Dear Members of the Board:

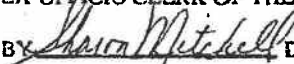
On October 7, 2003 your Board directed this office to report back with a proposed Whistleblower Hotline Program for your consideration. Attached is our proposed program outline.

It is therefore RECOMMENDED that the Board of Supervisors:

- 1) Accept and file this report on proposed Whistleblower Hotline Program.
- 2) Direct the County Administrative Officer to work with County Counsel, District Attorney, Personnel, and the Auditor-Controller to implement the program as outlined and report back on or before January 11, 2005.

Sincerely,


Gary A. Knutson
Auditor-Controller


APPROVED AND FILED
BOARD OF SUPERVISORS
DATE: June 21, 2004
COUNTY OF SANTA CRUZ
SUSAN A. MAURIELLO
EX-OFFICIO CLERK OF THE BOARD
BY:  DEPUTY

S 6 - 5

Attachment C

10

RECOMMENDED:



SUSANA MAURIELLO
County Administrative Officer

CC: County Administrative Officer
Personnel Director
County Counsel
District Attorney

Attachments: Whistleblower Hotline Program
Whistleblower Program Decision Summary

Whistleblower Hotline Program

The Whistleblower Hotline Program will be available to everyone. Employees, citizens, vendors, and contractors will have access to the hotline. Access will be available through the Internet and through an independent phone line set up with a secure answering machine. The program will be available in Spanish and English for greater accessibility.

The hotline will be available to report fraud, waste and abuse. The hotline will not answer ethical questions. Contacts may be referred to Personnel or Departments for follow-up if appropriate. The District Attorney will be alerted if fraud is discovered.

The Auditor-Controller will be responsible for operating the hotline. The Audit and Systems Manager will have direct authority. The audit division will respond to contacts; auditors will rotate the responsibility. Auditor's will also track and maintain a database of all contacts. The Auditor-Controller will report annually to the Board of Supervisors with statistics on the program. If significant information is uncovered during a contact the Auditor-Controller's office will perform an audit, that audit report will be filed with the Board of Supervisors.

The County Policy and Procedure Manual should be updated to include a code of ethics and should include information about the Whistleblower Hotline Program. Information received from whistleblowers will be kept confidential unless testimony is required. Whistleblowers need not worry about retaliation, as there are state (California Government Code § 9149.22) and federal laws (various laws for different departments) that protect them. Government employees are protected under the First and Fourteenth Amendments of the Constitution, which prohibit federal, state and local governments from retaliating against workers who express reasonable dissent on matters of public concern.

The Whistleblower Hotline Program should be notified of any fraud or waste. The Whistleblower Hotline Program will act as a clearinghouse of information about fraud and waste in the County. The Program will track all contacts made and will see contacts through until satisfactory outcomes are achieved.

Whistleblower Program Decision Summary

- Who can call into the whistleblower program?
 - *Anyone who has something to report, including, employees, vendors, contractors, and citizens, will have access to the whistleblower hotline.*
- What will be the method to contact the whistleblower program?
 - *The whistleblower hotline will be available ~~for~~ access through the Internet and an outside phone line with an answering machine.*
- Are there contacts that we will not accept?
 - *The whistleblower hotline will accept all contacts and if they are not applicable to the auditing department they will be referred to the proper department.*
- Will the program be available in English only?
 - *No, the program will be available in Spanish and English*
- How will we make employees (and others) aware of the program?
 - *A press release will be made as well as a flyer ~~for~~ circulation at County worksites.*
- What should the program be called?
 - *Whistleblower hotline*
- What will the response time be for each contact?
 - *When initial contact is made, if contact is not anonymous, then the Auditor's office will respond within one week.*
- Who will decide how to respond to each contact?
 - *The audit ~~staff~~ will be assigned the running ~~of~~ the whistleblower program. They will respond to calls and Internet contacts. Individual auditors will be assigned on a rotating basis. Auditors will respond to contacts based on professional judgment.*
- Will the program also answer ethical conduct questions?
 - *No, the program will not be available ~~for~~ this service at this time. The program ~~is~~ meant as a hotline to report fraud, waste and abuse.*
- Who will manage for the program?
 - *The Audit and Systems Manager in the Auditor-Controller's office will be responsible for managing the program.*
- Who will direct contacts and answer questions?
 - *On a rotating basis auditor will respond to calls and Internet contacts.*

Whistleblower Program
Decision Summary

- Who in Personnel will we direct HR contacts to?
 - *The Auditor-Controller's Office will work with Personnel to determine a list of contacts.*
- Who in the union will we refer contacts to?
 - *The whistleblower hotline will refer all personnel issues to the Personnel department for resolution.*
- Who will write procedures?
 - *The policies and procedures that will govern this program will be written as soon as the Board of Supervisors approves the proposed program. The Audit and Systems Manager has the responsibility for this task.*
- Who will update procedures?
 - *The Audit and Systems Manager is responsible for the operation of the hotline. Responsibility includes maintaining current policies and procedures.*
- What protection will be offered to those who come forward?
 - *Information will be kept confidential, unless testimony is required in court. Information that cannot be validated will not be released. We will work with County Counsel to further determine confidentiality.*
- How will calls be evaluated to determine response?
 - *The auditor who responds to the contacts will use professional judgment and a risk matrix with a scale of 1 (low) through 5 (high).*
- Lists of referrals need to be made, who should be included?
 - *At this time personnel has been contacted to determine the best contacts/s in that department. Other referrals will be added through time and experience.*
- Will each call that is not referred be subject to cost benefit analysis?
 - *No, those contacts not relating to fraud, waste and abuse will be referred to other departments. All contacts pertaining to fraud, waste and abuse will be investigated.*

**Whistleblower Program
Decision Summary**

- Will we create a fraud committee?
 - *No fraud committee will be needed. The auditor's office will refer or handle all contacts and will maintain a database with results of contacts. If fraud is discovered the District Attorney's Office will be contacted.*
- Will training be available to those dealing with contacts?
 - *The Auditor-Controller's department will provide training.*
- How will we ensure that records of contacts are kept secure?
 - *The Auditor's Office has experience dealing with confidential files and information and will continue with the procedures that work well in our office.*
- Who will monitor the program?
 - *The Auditor-Controller's Office will provide a yearly statistically report to the Board of Supervisors. If fraud, waste or abuse is discovered, an audit report will be prepared and presented to the Board of Supervisors.*
- Who will track contacts, responses, and outcomes?
 - *Auditors in the audit division will be responsible on a rotating basis for responding to contacts, that responsibility will also include entering tracking information in to the database.*
- What information will be recorded in the tracking database?
 - *Department*
 - *Typed call*
 - *Time and date of call*
 - *Who call was referred to*
 - *Resolution of call*
 - *Casenumbr*
- Policy/action on retaliation towards whistleblowers?
 - *The County will not have a specific policy on retaliation. California Government Code § 9149.22 protects whistleblowers in the State. The federal government has various laws that apply to retaliation regarding various federal programs.*
- Should we have a code of ethics?
 - *A code of ethics should be clearly written and adopted and published in the Employees Policies and Procedures manual.*

Schedule of County Whistleblower Hotlines

	County Name	Does the County have a Whistleblower Hotline?	If no, where are routed to?	Which County Department administers the Hotline?	How are reports investigated?
1	Fresno	Yes		Auditor-Controller/Treasurer Tax Collector	Investigated by either the Auditor's Office/Audit Department, the Department Head in the affected Department or other County officials as appropriate.
2	Kern	Yes		County contracts with a private company to perform the duties of receiving the calls and preparing a written intake report.	Investigated by either the Auditor's Office/Audit Department, the Department Head in the affected Department or other County officials as appropriate.
3	Los Angeles	Yes		Auditor-Controller/Office of County Investigations	Assigned to County Investigative Staff who researches the report and prepare the final report.
4	Orange	Yes		Internal Audit Division	Investigated by the Department Head in the affected Department or other County officials as appropriate.
5	Sacramento	Yes		Auditor-Controller	Investigated by either the Auditor's Office/Audit Department the Department Head in the affected Department or other County officials as appropriate.
6	San Bernardino	Yes		County contracts with a private company to perform the duties of receiving the calls under the coordination of the Auditor/Controller-Recorder.	Reviewed by the County's FWA (Fraud, Waste and Abuse) Hotline Committee which meets monthly. In general, reports received are referred to the Department Head in the affected department.
7	San Francisco	Yes		Controller	The County call center "311" receives the report and forwards it to the Department Head in the affected Department who reports back to the Auditor-Controller.
8	Santa Cruz	Yes		Auditor-Controller	Investigated by either the Auditor's Office/Audit Department the Department Head in the affected Department or other County officials as appropriate.
9	** Solano	Yes		Auditor-Controller	Investigated by either the Auditor's Office/Audit Department the Department Head in the affected Department or other County officials as appropriate.
10	Ventura	Yes		Auditor-Controller	Investigated by either the Auditor's Office/Audit Department the Department Head in the affected Department or other County officials as appropriate.
1	** Marin	Not a hotline - a Whistleblower process		Human Resources Division	Human Resources receives the reports unless the allegation is against HR in which case it goes to the County Administrator. Reports may be forwarded to the applicable Department Head for investigation.
2	San Diego	Not a hotline - a Whistleblower process		Chief Administrative Office	Citizen and customer service complaints are forwarded to the Chief Administrative Officer's Executive Office. The Office of Internal Affairs investigates allegations of improper County government activity and discrimination.
3	** San Mateo	Not a hotline - a Whistleblower process		County Counsel	County Counsel's office plans and conducts the investigation. Investigation may involve departmental management and/or HR. If County Counsel is the subject of the allegation, County manager's office handles the investigation.
4	Stanislaus	Not a hotline - a Whistleblower process		Human Resources Division	Human Resources Division investigates unless the allegation is against a member of HRD. In that case, the Chief Operating Officer investigates.
5	Yolo	A policy in draft form	Not designated		Currently Human Resources has a whistleblower policy in draft form. All employee complaints are handled by HR and the County expects the public to contact their elected Supervisor if they have complaints.

Schedule of County Whistleblower Hotlines

County Name	Does the County have a Whistleblower Hotline?	If no, where are routed to?	Which County Department administers the Hotline?	How are reports investigated?
1 Alameda	No	Not designated		
2 Alpine	No	Not designated		
3 Amador	No	Not designated		
4 Butte	No	Internal Auditor		
5 Calaveras	No	Not designated		
6 Colusa	No	Not designated		
7 ** Contra Costa	No	Not designated		
8 Del Norte	No	Not designated		
9 El Dorado	No	Not designated		
10 Humboldt	No	Not designated		
11 Imperial	No	Not designated		
12 Inyo	No	Not designated		
13 Kings	No	Not designated		
14 Lake	No	Not designated		
15 Lassen	No	Not designated		
16 Madera	No	Not designated		
17 Mariposa	No	Not designated		
18 Mendocino	No	Not designated		
19 Merced	No	Not designated		
20 Modoc	No	Not designated		
21 Mono	No	Not designated		
22 ** Monterey	No	Not designated		
23 ** Napa	No	Not designated		
24 Nevada	No	Not designated		
25 Placer	No	Not designated		
26 Plumas	No	Not designated		
27 Riverside	No	Not designated		
28 San Benito	No	Not designated		
29 San Joaquin	No	Not designated		
30 San Luis Obispo	No	Not designated		
31 Santa Barbara	No	Not designated		
32 ** Santa Clara	No	Not designated		
33 Shasta	No	Not designated		
34 Sierra	No	Not designated		
35 Siskiyou	No	Not designated		
36 ** Sonoma	No	Not designated		
37 Sutter	No	Not designated		
38 Tehama	No	Not designated		
39 Trinity	No	Not designated		
40 Tulare	No	Not designated		
41 Tuolumne	No	Not designated		
42 Yuba	No	Not designated		

Key = ** denotes Counties used by Santa Cruz County as "comparable Counties" for various rate studies and personnel related comparisons.

10



County of Santa Cruz

AUDITOR-CONTROLLER'S OFFICE
701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073
(831) 454-2500 FAX (831) 454-2660

MARY JO WALKER, AUDITOR-CONTROLLER

Chief Deputy Auditor-Controllers
Pam Silbaugh, Accounting
Kathleen Hammons, Budget and Tax
Edith Driscoll, Audit and Systems

January 10, 2006

Board Agenda: January 24, 2006

BOARD OF SUPERVISORS

County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: WHISTLEBLOWER HOTLINE ANNUAL REPORT

Dear Members of the Board:

Pursuant to the Santa Cruz County Policies and Procedures Manual section VII 700, this report provides statistical information on the 2005 calendar year Whistleblower Hotline activity from the Hotline's start date of May 25, 2005 through December 31, 2005.

The Whistleblower Hotline is intended for Santa Cruz County residents, vendors, contractors and employees to report fraud, waste and abuse. The reported incident must relate to the County and include fraudulent activity by Santa Cruz government employees; misuse of County resources by vendors, contractors or County employees; or significant violations of County policy.

The Auditor-Controller receives and investigates Whistleblower Hotline reports. To enable the reporting of these activities, the Auditor-Controller's Office maintains a Whistleblower Hotline at 831-454-3333, a reporting website in both English and Spanish which is accessed via the County's web page, and accepts written reports at 701 Ocean Street, Room 100.

For the reporting period, thirty-one total contacts were received. Of the contacts received, four were transmitted by letter, seventeen by phone call, and ten were received on the Hotline's webpage report form. Seven of the contacts received were determined to be outside of the scope of the program, and four of the contacts were general questions, which were either answered or referred to the appropriate resource. Of the remaining twenty contacts, twelve are considered closed and resolved, and eight are open and have been referred to the appropriate department or agency to

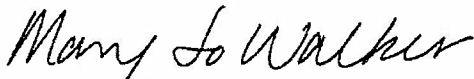
investigate and return to the Auditor-Controller with their findings. Of the twelve reports that have been investigated and closed, five were determined to be unsubstantiated, and seven involved some level of response.

Examples of the types of reports that have been made on the Whistleblower Hotline through the thirty-one contacts received during 2005 include allegations of welfare or child support fraud; violations of the County's land use ordinances; employee parking or vehicle misuse; animal abuse; various personnel related-issues; cash handling procedures at a vendor's site; performance of a County contractor, and inconsistent application of local ordinances, fines and penalties.

The Whistleblower Hotline has become a successful addition to the County's internal controls, due in part to the willingness of County departments and other agencies to investigate and report back on their findings.

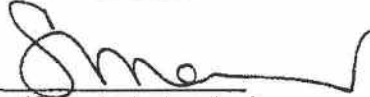
It is therefore RECOMMENDED that the Board of Supervisors accept and file this report on the Whistleblower Hotline activity for calendar year 2005.

Sincerely,



Mary Jo Walker
Auditor-Controller

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Copy to : County Administrative Officer



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County of Santa Cruz

AUDITOR-CONTROLLER'S OFFICE
701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073
(831) 454-2500 FAX (831) 454-2660

MARY JO WALKER, AUDITOR-CONTROLLER
Pam Silbaugh, Accounting
Kathleen Hammons, Budget and Tax
Edith Driscoll, Audit and Systems

RECEIVED
SANTA CRUZ COUNTY
AUDITOR-CONTROLLER
07 FEB 13 2007
3:31 PM

February 1, 2007

APPROVED FILED
BOARD OF SUPERVISORS

DATE: 2/13/07
COUNTY OF SANTA CRUZ
SUSANA MAURELLO

Board Agenda: February 13, 2007

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

OFFICE CLERK OF THE BOARD
BY: *Susana Maurello*
DEPUTY

SUBJECT: WHISTLEBLOWER HOTLINE ANNUAL REPORT

Dear Members of the Board:

Pursuant to the Santa Cruz County Policies and Procedures Manual section VII 700, the attached schedule provides statistical information on the 2006 calendar year Whistleblower Hotline activity and summarizes the reports received from the Hotline during the year.

The Whistleblower Hotline is intended for Santa Cruz County residents, vendors, contractors and employees to report allegations of fraud, waste and abuse, including fraudulent activity by Santa Cruz government employees; misuse of County resources by vendors, contractors or County employees; or significant violations of County policy.

To enable the reporting of these activities, the Auditor-Controller's Office maintains a Whistleblower Hotline at 831-454-3333, a reporting website which can be accessed via the County's web page, and accepts written reports at 701 Ocean Street, Room 100. Reports can be made anonymously. The Auditor-Controller receives and reviews Whistleblower Hotline reports. The reports are forwarded to the appropriate department to research and resolve as necessary. After six months the departments are contacted to determine the resolution of the report. If appropriate, the Auditor-Controller investigates reports independently.

Examples of the types of reports that have been made to the Whistleblower Hotline this year include allegations of: environmental health code violations; violations of the County's land use ordinances; welfare fraud; animal abuse; various personnel related-issues; discrimination by County departments, and a special district not in compliance with the Brown Act.

10

Whistleblower Hotline Statistical and Reporting Overview 2006

Total contacts received: 26

Method of contact:

- Letters: 4
- Telephone calls: 15
- Web page reports: 7

Current status

Report forwarded to

case # Allegation Summary

<u>case #</u>	<u>Allegation Summary</u>	<u>Report forwarded to</u>	<u>Current status</u>
35	On-the-job drug use by County workers.	Appropriate Department Head	Closed - provided department with summary of report to use for general information. Caller didn't give enough specifics to pursue call.
36	Residents committing Measure J (affordable housing) fraud.	Planning Department	Closed - researched by Planning Department and determined not to be fraudulent.
38	Individuals feel that the Planning Department is harassing them.	Planning Department	Closed - reviewed documentation sent by reporting party and determined that there was no harassment.
40	Illegal structure being used for housing.	Planning Department	Closed - Reporting Party filed report with the Planning Department directly.
41	Check sent for dog license was not cashed in a timely manner.	Animal Services Authority	Closed - ASA staff was aware of the problem and is now making more timely deposits.
42	Planning Department is: discriminating against certain business owners, possibly taking bribes and not keeping the names of reporting parties confidential.	Planning Department	Closed - The Planning Department hired a private investigator who could not substantiate any of the claims.
	County employee accused of various violations of County policy including computer use, length of breaks and disruptive behavior.	Human Resources Agency	Closed - referred to department, job performance issue.

The following are the statistics for the 2006 reporting period:

Contacts Received Via:

Letter	4
Phone Call	15
Hotline's web page reporting form	7
Total Contacts Received:	26

Disposition of Contacts:

Determined to be outside of the scope of the program	7
General questions, which were referred to the appropriate resource	1

Four of the contacts received prior to September 2006 involved anonymous code violation complaints. As of September 2006, the Hotline no longer accepts these, but instead refers these reports to the Planning Department's Code Complaint Form located on their website.

The Whistleblower Hotline has become a successful addition to the County's internal controls, due in part to the willingness of County departments and other agencies to investigate and report back on their findings.

It is therefore RECOMMENDED that the Board of Supervisors accept and file this report on the Whistleblower Hotline activity for calendar year 2006.

Sincerely,

Mary Jo Walker
Auditor-Controller

RECOMMENDED

SUSAN A. MAURIELLO
County Administrative Officer

CC: County Administrative Officer
Attachments:

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0788

Allegation Summary

Report forwarded to

Current status

44	Resident possibly running a puppy mill in the County.	Animal Services Authority	Closed - ASA investigated animal aspect. The Planning Department is working with accused in regards to a kennel permit.
46	County employee accused of misappropriating County supplies by rewiring personal residence with cables left by contractor.	Information Services Department	Closed - allegation was withdrawn when reporting party found out that the cable was scraps left over from a job.
47	Caller wanted to report welfare fraud.	N/A	Closed - Caller decided not to submit a report during the call.
48	A special district was accused of not always posting agendas, and being negligent with road repairs.	District Board Chairman and the Department of Public Works.	Closed - allegations could not be substantiated regarding agenda postings. Road determined to be private road, not maintained by Public Works.
49	County Code violations regarding two families living in an industrial building.	Planning Department	Closed - referred reporting party to Planning website, Code Complaint Form.
50	Employee terminated without sufficient cause.	Human Resources Agency	Closed - Employee who was terminated was on probation and exhausted the appeal process prior to being terminated.
	Dog was destroyed without the owners knowledge.	Animal Services Authority	Closed - ASA investigated in collaboration with County Counsel and determined that the proper procedures had been followed.
52	Caller's daughter died in Santa Cruz County, but caller has not been able to receive a copy of the Coroner's report.	Coroner's Office	Closed - The autopsy report had not been finished. The report will be sent to the caller as soon as it is complete. A Washington State Senator is also assisting reporting party.
3	Caller feels that a Watsonville market should not have been able to obtain a food permit.	N/A	Closed - Spoke to Environmental Health Services, who stated the market satisfies the County's food permit requirements. Referred Caller to Watsonville Planning Department.

10

<u>Allegation Summary</u>		<u>Report forwarded to</u>	<u>Current status</u>
54	Home owner reportedly draining sewage into yard.	Environmental Health Services	Closed - per caller, problem has been resolved 20 days after referring to Environmental Health Services.
57	Landlord rents out a mobile home that has code violations.	N/A	Closed - referred caller to Planning website, Code Complaint Form.
The following 7 reports were determined to be outside of the scope of the Hotline.			
33	Company polluting the ground water.	City of Santa Cruz, Planning Department hotline	Closed - referred
37	Caller reported drug use in trailer park.	Sheriff's Office	Closed - referred to Sheriff's non emergency telephone number.
39	Company owner does not pay employment taxes or workers compensation.	EDD	Closed - referred
45	Reporting party had been caught in traffic on Highway 17 and feels that the road sign near Los Gatos should have read, "Highway 17, Expect backup approximately 1/2 hour or more wait", instead of reading, "Don't Drink Drive Safely."	N/A	Closed
55	Caller reported poor customer service at the Housing Authority.	N/A	Closed
56	Reporting party thinks that a local catering company employs illegal workers.	N/A	Closed
58	Abandoned vehicles parked on perimeter of Polo Grounds County Park.	Sheriff's Office	Closed - referred to Sheriff's Office, Abandoned Vehicle Program.
The following is a general question received by the Hotline.			
34	Caller wanted to know if the County performs drug tests on it's employees.	Personnel Department	Closed - referred to Personnel Department.



COUNTY OF SANTA CRUZ

MARY JO WALKER, AUDITOR-CONTROLLER
701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073
(831)454-2500 FAX (831)454-2660

Edith Driscoll, Chief Deputy Auditor-Controller
Pam Silbaugh, Accounting Manager
Kathleen Hammons, Budget and Tax Manager
Mark Huett, Audit and Systems Manager

March 21, 2008

Board Agenda: April 8, 2008

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: WHISTLEBLOWER HOTLINE ANNUAL REPORT

Dear Members of the Board:

Pursuant to the Santa Cruz County Policies and Procedures Manual section VII 700, the attached schedule provides statistical information on the 2007 calendar year Whistleblower Hotline activity and summarizes the reports received from the Hotline during the year.

The Whistleblower Hotline is intended for Santa Cruz County residents, vendors, contractors and employees to report allegations of fraud, waste and abuse, including fraudulent activity by Santa Cruz government employees; misuse of County resources by vendors, contractors or County employees; or significant violations of County policy.

To enable the reporting of these activities, the Auditor-Controller's Office maintains a Whistleblower Hotline at 831-454-3333 and a reporting website which can be accessed via the County's web page, and accepts written reports at 701 Ocean Street, Room 100. Reports can be made anonymously. The Auditor-Controller receives and reviews Whistleblower Hotline reports, then forwards the reports to the appropriate department to research and resolve as necessary. The Auditor-Controller's Office requests a response from the department within six months as to the resolution of the report, and we follow up with the department after six months if no response has been received. If appropriate, the Auditor-Controller investigates reports independently.

Examples of the types of reports that have been made to the Whistleblower Hotline this year include allegations of: improper purchasing of equipment; personal use of a county vehicle; welfare fraud; improper handling of controlled substances; various personnel related issues, and the growing and selling of illegal drugs.

10

Allegations Summary

Report

Closures

8	A County employee was hired in violation of the County's Civil Service Rules, and may not have been qualified for his current position.	Personnel Department	Closed - Researched by Personnel and Auditor Controller's Office. Documentation showed that the employee was hired in accordance with the County's Civil Service Rules and met the minimum qualifications for his current position.
9	Equipment was bought without going through the bidding process.	Purchasing	Closed - Researched by Auditor-Controller's Office and determined that the County's purchasing procedures were followed, and that the equipment described by caller was not required to go to bid.
10	The County provided equipment to a County contractor, which was purchased from the contractors relative.	Purchasing	Closed - Researched by the Auditor-Controller's Office and determined that the equipment was purchased by the contractors not the County. Per the contract, the County did not provide any equipment for the project.
11	State and federal laws regarding the transportation of euthanasia drugs were violated.	Animal Services Authority	Closed - Researched and determined to be true on one occasion. The DEA was notified and new policies were put in place to avoid this situation from reoccurring.
12	Employees who worked on Christmas Eve received holiday pay.		Closed - Researched by the Auditor-Controller's Office and per the applicable MOU the employees in question were correctly compensated for working on Christmas Eve.
13	A job candidate received special treatment during the hiring process.		Open - Auditor-Controller's Office currently reviewing allegation.
14	A County department engaged in unfair hiring and promoting practices, abused travel and training policies, and had questionable telecommuting practices.		Open - Auditor-Controller's Office currently reviewing allegation. The allegations reported in #13 above were included in the additional allegations made in report #14.
15	The County did not require the correct qualifications of bidding contractors for a project, which resulted in the County paying more money than necessary for a contractor.	General Services Department	Open - General Services Department currently reviewing allegation.



STANISLAUS COUNTY
BOARD OF SUPERVISOR'S RESOLUTION
APPROVED FEBRUARY 28, 2006/RESOLUTION # 2006-130
WHISTLEBLOWER POLICY

PURPOSE

All Stanislaus County employees operate under the requirements of numerous County policies, ordinances and contractual agreements, as well as other State and Federal laws and regulations governing employee activities. The collective requirements of all of these laws, regulations, policies, ordinances and agreements, create an environment of high standards for all County employees in the performance of their duties.

The purpose of this policy is to:

1. Establish an alternative process for reporting employee misconduct; and
2. Confirm the County's commitment to protecting whistleblowers from harassment or retaliation.

Many of the current standards governing employee conduct include specific procedures for County employees to report allegations of employee misconduct for appropriate investigation and follow-up. Some of the existing procedures for reporting misconduct are included in the County's Equal Employment Opportunity Program, the County Code of Ethics Policy and numerous Federal and State laws and regulations. The County also maintains contractual agreements with labor organizations and other private or public entities, many of which contain specific procedures for individuals to report allegations of contractual violations. This policy is not intended to replace any of the existing procedures that are currently in place for reporting issues of employee misconduct or contractual grievances. All existing procedures for reporting employee misconduct and contractual grievances remain available in conjunction with the implementation of this policy.

DEFINITIONS

- Employee—any regular, temporary or contracted employee of the County, including all appointed and elected officials.
- Employee Misconduct—any employee action which specifically violates any employee responsibility defined in County policies, ordinances, and contractual agreements, as well as any State and Federal laws or regulations.
- Whistleblower—any employee reporting an allegation of employee misconduct.

POLICY

Employees are encouraged to address allegations of employee misconduct at the lowest level appropriate for the issue. This would typically include reporting the violation to the employee's supervisor, manager or Department Head. Employees who are not comfortable reporting employee misconduct to available supervisors, managers or Department Heads, may elect to report the allegation of misconduct to the Human Resources Division of the County Chief Executive Office for appropriate referral and follow-up. Reports may be done verbally or in writing to:

Stanislaus County
Attn: CEO - Human Resources Division
1010 10th Street, Suite 6800
Modesto, CA 95354
(209) 525-6333

Reports may be anonymous, although follow-up and investigation may be limited in some situations when the reporting party is not identified. If the allegation of misconduct involves a member of the CEO – Human Resources Division, the report may be forwarded to the following:

Stanislaus County
Attn: Chief Operating Officer
1010 10th Street, Suite 6800
Modesto, CA 95354
(209) 525-6333

An employee who in good faith reports an allegation of employee misconduct shall be protected from harassment or retaliation. Any employee who retaliates against another employee who has reported an allegation of misconduct will be subject to discipline up to and including termination of employment. Employees who knowingly file a false report of employee misconduct may also be subject to discipline up to and including termination of employment.

CALIFORNIA WHISTLEBLOWERS PROTECTION ACT

The California "Whistleblowers Protection Act" applies to all employers in the State of California, including Stanislaus County. The specific provisions of the Act are contained in Sections 1102.5 through 1106 of the California Labor Code. The Act protects employees when reporting any violations of State or Federal laws or regulations and requires the California State Attorney General to maintain a Whistleblower Hotline (800-952-5225) for accepting reported violations. A notice describing the Whistleblower Hotline is posted in workplaces throughout the County in compliance with the Act.

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-2

Urgent

Routine

AGENDA DATE February 28, 2006

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Stanislaus County Whistleblower Policy

STAFF RECOMMENDATIONS:

Approve the Stanislaus County Whistleblower Policy

FISCAL IMPACT:

There is no fiscal impact associated with the approval of this agenda item.

BOARD ACTION AS FOLLOWS:

No. 2006-130

On motion of Supervisor Grover, Seconded by Supervisor Mayfield
and approved by the following vote,

Ayes: Supervisors: O'Brien, Mayfield, Grover, DeMartini, and Chairman Simon

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST:

Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

File No.

10

Discussion:

The Stanislaus County Whistleblower Policy was prepared to document the County's existing practice of receiving and evaluating various employee **issues** through the Chief Executive Office Human Resources Division. Although the County's existing practice is not recommend to change, the creation of a formal Whistleblower policy was recommended by the 2004-2005 **Civil** Grand Jury and **deemed** appropriate by the Chief Executive Office. The formal policy was **developed** by the Chief Executive Office and included a review of current whistleblower policies in other public and private sector organizations. County Department Heads and labor representatives were included in the review and final revisions of the recommended policy.

The recommended policy includes procedures for reporting employee misconduct and a confirmation of **the** County's commitment to protecting whistleblowers from harassment or retaliation. The implementation of this policy will not change any current grievance and complaint procedures available to County employees **and** designated employee representatives.

Policy Issues:

The **Board** of Supervisors should consider the approval of the new County Whistleblower policy in support of the Board's stated priority to provide the efficient delivery of public services.

Staffing Impact:

There is no staffing impact associated with the approval of this agenda item.

COUNTY OF SANTA CRUZ VENUES FOR ADDRESSING EMPLOYER/EMPLOYEE ISSUES

GRIEVANCES ¹	EEO COMPLAINTS ²	DISCIPLINARY APPEALS
Alleged violation of MOU or of Personnel Reg § 160	Alleged employment-related discrimination or harassment based on protected status/other non-merit factor	Stage II: Written Reprimand
↓	↓	↓
Informal Discussion with Supervisor	Administrative Resolution within Department (optional)	Notice of Intent to Suspend, Demote or Terminate
↓	↓	↓
Step 1: formal grievance filed with department	Formal Complaint with EEO Office	Appeal to supervisor
↓	↓	↓
Meeting held, written decision issued	EEO Office investigates, issues written report of findings	Skelly meeting with appointing authority or designee
↓	↓	↓
Step 2: Appeal to Personnel Director	Either party may appeal to County Administrative Officer	Written Decision
↓	↓	↓
Meeting held, written decision issued	CAO reviews, issues written decision	Appeal to Civil Service Commission (or arbitration, for General Representation Unit)
↓	↓	↓
Step 3: Appeal to Hearing Officer	Non-SEIU Human Svcs Dept & Child Support employees ³	Decision FINAL
↓	↓	↓
Hearing and Written Decision	SEIU members (all depts)	Appeal to Civil Service Commission
↓	↓	↓
Decision of Hearing Officer Final & Binding	All others	Decision FINAL
	Appeal to Civil Service Commission	
	CAO decision final	

¹ Note: Grievance processes vary by bargaining unit. The process outlined above is for the General Representation Unit.
² Employees may skip the County's internal EEO complaint process and file complaints directly with the California Fair Employment & Housing Commission or the federal Equal Employment Opportunity Commission
³ These employees are covered by the State Merit System which requires special appeal procedures

A u d i t o r - C o n t r o l l e r

THIS SECTION ONLY CONTINUED TO SEPTEMBER 16, 2008

Title VII, Section 700 - Whistleblower Hotline

Whistleblower Hotline

The Whistleblower Hotline is intended for Santa Cruz County residents, vendors, contractors and employees to report fraud, waste and abuse. The reported incident must relate to the County and include fraudulent activity by ~~Santa Cruz~~ Santa Cruz government employees; ~~misue~~ misuse of County resources by vendors, contractors or County employees; and significant violations of County policy.

Communications received are confidential and can be anonymous if requested by the reporter. Communications will be kept confidential unless testimony is required. Reports related to building code and planning department related violations cannot be accepted from anonymous sources and must include reporting party contact information. Reports can be made in English or Spanish. ~~The Auditor-Controller will investigate reported incidents and appropriate action will be taken.~~ review each report that is received. If the report falls within the Whistleblower Hotline parameters, the report will be investigated either by a staff person in the Auditor-Controller's Office or it will be forward to the appropriate Department Head for resolution.

1. Ways to report:
 - a. Calling the hotline telephone at 831-454-3333
 - b. Accessing the County hotline web page and completing a report online. A link to this web page is located on both the County's main web page and the Auditor-Controllers web page.
 - c. Mailing a report to 701 Ocean Street, Suite 100, Santa Cruz, CA 95060 Attn: Whistleblower Hotline
2. Statistical reports
 - a. The Auditor-Controller will report annually to the Board of Supervisors with statistics on the program.

Title VII. Section 700 – Whistleblower Hotline

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 - a. The Auditor-Controller will report annually to the Board of Supervisors with statistics on the program.



SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW-CLC

BAKERSFIELD

1001 17th Street
Bakersfield, CA 93301
Phone: 661-321-4160
Fax: 661-325-7814

FRESNO

5755 N. Marks Ave., #152
Fresno, CA 93711
Phone: 559-447-2560
Fax: 559-261-9306

REDWOOD CITY

891 Marshall Street
Redwood City, CA 94063
Phone: 650-778-9910
Fax: 650-365-7956

SAN JOSE

2302 Zanker Road
San Jose, CA 95131
Phone: 408-578-3300
Fax: 408-954-1538

SANTA CRUZ

517B Mission Street
Santa Cruz, CA 95060
Phone: 831-824-9255
Fax: 831-456-0756

Hollister

Fax: 831-836-0787

SALINAS

334 Monterey Street
Salinas, CA 93901
Phone: 831-784-2560
Fax: 831-757-1863

Watsonville

Fax: 831-724-9095

VISALIA

1811 W. Sunnyside Ave
Visalia, CA 93277
Phone: 559-635-3720
Fax: 559-733-5006

Hanford

Fax: 559-582-3510

Toll Free:

1-877-SEIU-521

www.seiu521.org

July 15, 2008

Honorable Chairpersons
Santa Cruz County Civil Service Commission
County of Santa Cruz
701 Ocean Street, Third Floor
Santa Cruz, CA 95060

Sent by Facsimile and U.S. Mail

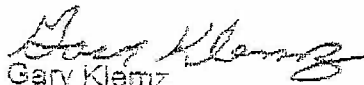
Dear Honorable Chairperson and Commissioners:

The recently released 2007-2008 Grand Jury report confirms problems with the administration of the county's civil service system and whistle blower program previously brought by SEIU to the Civil Service Commission beginning in February 2007.

We request the Commission defer development of a formal response to the Grand Jury report at its July meeting, and instead call a special meeting in September to review the issues and formulate a response prior to the October deadline. We also request that the subcommittee composed of Commissioners Barsi and Taren hold a hearing prior to the September meeting to take testimony of all interested parties in the community in order to gather information for a recommendation of the full Commission at its September special meeting.

The Grand Jury report highlights the existence of significant problems with the administration of the county's civil service system. All stake holders need to have the opportunity to participate in the development of solutions to address these serious issues. A new Personnel Director, who will take over as secretary to the Commission, is just starting employment with the county this week. Additionally, the Union and Management are in the middle of addressing threatened layoffs of many county employees as a consequence of significant budget shortfalls. SEIU would like the time to be able to meet with the new Personnel Director to update him on the history of these complaints, and work toward a labor-management approach to bring back to the Commission. Members of the public also need to be provided the opportunity to come forward and present their ideas.

Thank you for your consideration of this request.



Gary Klemz
Board Officers and Members

cc: Personnel Director (Facsimile)

SANTA CRUZ COUNTY PRESS RELEASE

Appointment of County Personnel Director

Date: June 17, 2008
Release: Immediately
Contact: Chris Hirsch
454-3409

Susan Mauriello, County Administrative Officer, announced today the appointment of Michael McDougall to the position of Personnel Director for the County of Santa Cruz effective July 14, 2008. Mr. McDougall was selected from an extensive list of qualified candidates. Mr. McDougall states: "I look forward to my new position and the opportunity to work with the team of competent professionals in the County's Personnel Department. I know that these are difficult times in local government and am confident that through our combined experiences, we can address the challenges before us creatively and effectively."

Mr. McDougall's educational and career experiences are well suited to his new position. He earned his Bachelor of Arts Degree with honors, from St. Mary's College of California. Among other achievements, Mr. McDougall has earned his Labor Academy I/II Certificate from the California Public Employers Labor Relations Association and holds an advanced certification in Criminal Justice Administration and Emergency Management from the California Specialized Training Institute (CSTI).

Mr. McDougall is an exceptional manager and experienced administrator. He began work in Santa Cruz County in 1992 at the Santa Cruz Consolidated Emergency Communications Center (SCCECC) where he presently serves as the Executive Officer for the Joint Powers Authority (JPA) and employs 58 staff on a 24 hours a day, 7 day a week basis. In this capacity, Mr. McDougall has been responsible for directing the planning, equipping, financing, acquisition, construction, maintenance, staffing and operation of a consolidated multi-functional, multi-jurisdictional public safety 9-1-1 Communications Center servicing ten fire agencies, three municipal law enforcement agencies, the County Sheriff's Office, the county-wide Emergency Medical Response (EMS) program and other related agencies. During Mr. McDougall's tenure, the SCCECC was awarded accreditation by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). The SCCECC is the only such agency to receive this honor in California and only one of a few in the nation.

Prior to his work at the SCCECC, Mr. McDougall worked for the County of San Mateo as the Public Safety Communication Director where he was extensively involved in labor/management negotiations, meet and confer, and mediation/arbitration. During his career, he has also provided technical and management consulting services to a number of jurisdictions.

DISCIPLINE TRACKING

January - June 2008

Civil Service Commission Report

MONTH	DEPARTMENT	JOB TITLE	REASON	DISCIPLINE	CIVIL SVC APPEAL
Jan 08	Pub. Wks.	Admin. Analyst	Unlawful Harassment	Suspension	No
Jan.08	Pub.Wks.	Maintenance Worker II	Accident	Suspension	No
Jan.08	Pub.Wks.	P.W. Supervisor	Neglect of Duty	Suspension	No
Feb.08	Child Sup.	Child Sup. Specialist II	Discourteous treatment	Suspension	no
Feb. 08	Pub. Wks	Sanitation Main. Worker II		Suspension	No
Feb.08	Pub.Wks.	Hvy.Equip.Mech.	Neglect of Duty-Possible theft	Dismissal	no
Mar 08	HSD	Eligibility Wker.	Dishonesty	Termination	no
April 08	Sheriff	Deputy	Fraternization	Suspension	no
April 08	HSD	Eligibility Worker	Dishonesty	Termination	no
May 08	Public Works	Heavy Equip. Mechanic	Theft	termination	yes
May 08	HSA	Mental Health Client Spec	Discourteous, no available job assignment	termination	yes
May 08	HSA	Therapist	Neglect of duty	Termination	no
June 08	HSA	Mental health Spec.	Neglect, insubordination	Suspension	No



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310
SANTA CRUZ, CA 95060

TELEPHONE: (831) 454-2600
FAX: (831) 454-2411
TDD: (831) 454-2123

CIVIL SERVICE COMMISSION AGENDA NOTICE OF PUBLIC MEETING

Location: Board of Supervisors' Chambers
County Government Center
701 Ocean Street, Fifth Floor
Santa Cruz, CA 95060

Date and Time: Thursday, July 17, 2008 at 5:45

A regular meeting of the Civil Service Commission has been set for **5:45 p.m., Thursday, July 17, 2008** at the County Government Center, Board of Supervisors' Chambers, 701 Ocean Street, Fifth Floor, Santa Cruz, California.

This agenda is to invite you to participate in a public meeting of the Santa Cruz County Civil Service Commission. Please review the agenda for items of interest to you. You may come to the meeting and speak, or you may send a letter, which will be considered at the meeting. The letter should be addressed to the Personnel Director or Chair of the Civil Service Commission, and should reference the agenda date and specific items of interest to you.

AGENDA

- I. Call to Order
- II. Attendance
- III. Approval of Minutes for April 17, 2008 meeting
- IV. Additions and Corrections to Agenda
- V. Oral Communications
 - a. Public Comment
 - b. Secretary's Report
- VI. Old Business
 - a. Introduction of the newly appointed Personnel Director
 - b. Commission request for information regarding provisional appointments
- VII. New Business
 - a. Consider Grand Jury report and direct staff regarding response.

VIII. Reports

- a. Adopt Delegated Classification Actions
- b. Receive Employment Services Division Workload Report
- c. Receive Discipline report

IX. Correspondence Items

- a. Letter from Morgan Koch, dated April 21, 2008, regarding Whistleblower program
- b. Commission Response Letter to Morgan Koch, dated May 16, 2008
- c. Grand Jury report entitled: "Handpicked for the Job?"
- d. Letter from Rosa Valdivia, dated June 23, 2008, regarding alternate staffing
- e. Memo from Susan Mauriello, County Administrative Officer, dated July 10, 2008, regarding responses to 07-08 Grand Jury Report

X. Adjournment

Next Quarterly Commission Meeting: Thursday, October 16, 2008

The Commission will receive Oral Communications prior to regularly scheduled action items. Any person may address the Commission on any item of interest to the public, before or during the Commission's consideration of the item, restricted to three minutes per individual, provided that no action shall be taken on any item not appearing on the agenda. Commissioners may choose to follow up at a later time, either individually or on a subsequent Civil Service Commission agenda.

Meeting Announcement

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors' Chambers are located in an accessible facility. If you wish to attend this meeting and you will require special assistance in order to participate, please contact Laurie Hill at 454-2948 (TDD number 454-2123) at least 72 hours in advance of the meeting in order to make arrangements. As a courtesy to those affected, please attend the meeting smoke and scent free.

Action Items Will Be Heard According to the Agenda Schedule

Civil Service Commission Minutes
Thursday, April 17, 2008

The Civil Service Commission held a quarterly meeting on Thursday, April 17, 2008 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California.

ORDER OF BUSINESS

1. Call to Order: Vice Chair Gordon called the meeting to order at 5: 49 p.m.
2. Attendance: Commissioners present: Vice Chair Jack Gordon, Michael Barsi, Judy Jones, and Robert Taren. Commission Chair Fink was absent. Also present: Thornton Kontz, Commission Attorney, Laurie Hill, designated Staff to the Commission, Ajita Patel, Acting Personnel Director, Rama Khalsa, Director the Health Services Agency, and Personnel Analysts Terri Cobbs, Christa Schleiner, Kim Begley, and Nisha Patel.
3. Approval of Minutes: The minutes of the January 17, 2008 meeting were approved 4-0.
4. Oral Communications: There was no public comment.
5. Secretary Report: Secretary Hill reported no pending appeal hearings.
6. Old Business:
 - a. Status of the ad hoc committee on Civil Service oversight, job specifications, job reclassification and the Whistleblower Hotline. Commissioner Taren submitted a report to the Commission, dated April 17, 2008, on the activity of the Ad Hoc Committee (attached). He said that the Ad Hoc committee met three times in private, once with SEIU and took testimony from individuals regarding provisional appointments and the Whistleblower Hotline. The Ad Hoc committee did not meet with management or the Personnel Department. The committee is still looking into the matter and proposals to address concerns. Taren said that complaints reported to the Whistleblower Hotline that were directed back to the department manager to investigate could present opportunities for retaliation. Taren felt that this situation needed to change and that he would contact similar sized counties for some ideas. Ad Hoc committee member, Commissioner Barsi, expressed concerns regarding provisional hires and felt that such hires gained an unfair advantage over other candidates for the job. He heard allegations that the individuals were not qualified for the positions. He suggested that the Whistleblower Hotline be conducted outside the County and that the Board consider an independent body. Commissioner Barsi also said that the Ad Hoc committee investigation was still underway. The Commission directed Personnel staff to submit a report on provisional hires for a period of 3-5 years. Commissioner Jones recommended that the Commission read the rules governing provisional appointments.
 - b. Commissioner Jones reported on the Personnel Director recruitment. She said that she met with Personnel, the County Administrative Officer, and Commissioners.

She planned to participate in the final rounds of interviews and that the County Administrative Officer (CAO) would make the final selection. Nancy Elliott said she was shocked that SEIU was not involved in the selection process and that the Commission should provide for SEIU's participation. She said that Nick Steinmeier, Executive Director, specifically requested SEIU's participation in the selection. Commissioner Gordon said that it was not the role of the Commission to direct the selection process and that he was confident in Commissioner Jones' participation. Commissioner Taren asked about the role of the Board and Ajita Patel, Acting Personnel Director, responded that the CAO may discuss the proposed selection with the Board, adding that the final selection belonged to the CAO.

7. Reports

- a. Commission adopted the Delegated Classification report 4-0.
- b. Commission received the Employment Services Workload report.

8. Received Correspondence Items

- a. Commission noted the letter sent to the County Administrative Officer on their behalf regarding the Personnel Director selection process.
- b. Commission received the letter from SEIU 521, dated February 14, 2008.
- c. Commission received the thank you letter from the Board of Supervisors.

9. Adjournment: There being no other business or public comment, the quarterly meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Laurie Hill, Staff to the Commission

Robert E. Taren
Attorney at Law
411 Cedar Street
Santa Cruz, CA 95060
Phone: 831-429-9880
Fax: 831-429-9923

April 17, 2008

Patricia Fink, Chair,
Santa Cruz County Civil Service Commission

Dear Ms. Fink;

Please accept this subcommittee report on our preliminary investigation of:
(1) whether provisional hires are automatically selected as permanent hires for the county of Santa Cruz and,
(2) Whether the Santa Cruz whistleblower rules needs revising.

Mr. Barsi and Mr. Taren met privately concerning the testimony that was previously before this Commission by employees of Santa Cruz County. We then interviewed approximately 12 Santa Cruz employees, some who would not disclose their name for fear of retaliation, concerning hiring practices and whistleblowing complaints.

I want to make it clear the subcommittee has not yet interviewed any management personnel to discuss our investigation.

Preliminarily the following information was gleaned from testimony and interviews concerning Santa Cruz county hiring practices. Whether true or not there is an overwhelming belief among county workers that many provisional hires especially in advancement positions are hand picked and put into provisional jobs and then automatically hired as permanent employees in their new positions. This creates a strong feeling of unfairness in the hiring and promotion system within the county of Santa Cruz and could very well be a possible violation of Civil Service rules and regulations.

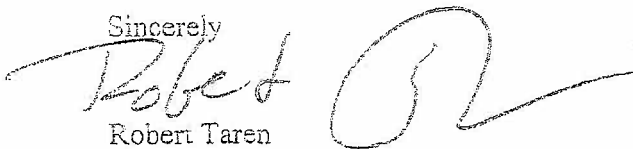
While the subcommittee still needs to interview various management personnel we believe that a request should be made to either the personnel office or department heads to determine if they have statistical information of the number of provisional hires who are hired permanently.

Concerning the whistleblower hotline, interviews were obtained from employees calling the whistleblower hotline which is the Auditor's office who then contacts the employee's department head to investigate the complaint. Various individuals who were interviewed described fear of retaliation because their complaint was ultimately being investigated by the same department

they were filing complaints about. Information was also received that because the complaints are ultimately investigated by the employee's own department that employees can be intimidated by the process and would refuse to cooperate about possible county abuses.

In conclusion this is a preliminary report; the subcommittee still needs to discuss various issues with personnel and management about hiring. However we reiterate the need to determine what percentage of provisional hires become permanent. As to the whistleblower problem we request that the personnel dept. contact other counties the size of Santa Cruz to determine how there whistleblower program works.

Sincerely

A handwritten signature in cursive script, appearing to read "Robert Taren", followed by a large, stylized flourish or scribble.

Robert Taren

Mike Barsi

Subcommittee members

LOCAL 521



SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW-CLC

BAKERSFIELD

1001 17th Street
Bakersfield, CA 93301
Phone: 661-321-4160
Fax: 661-325-7814

FRESNO

5756 N. Marks Ave., #152
Fresno, CA 93711
Phone: 559-447-2560
Fax: 559-261-9308

REDWOOD CITY

891 Marshall Street
Redwood City, CA 94063
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Fax: 650-365-7956

SAN JOSE

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San Jose, CA 95131
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Fax: 408-954-1538

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517B Mission Street
Santa Cruz, CA 95060
Phone: 831-824-9255
Fax: 831-459-0756

Hollister

Fax: 831-636-0787

SALINAS

334 Monterey Street
Salinas, CA 93901
Phone: 831-784-2560
Fax: 831-757-1863

Watsonville

Fax: 831-724-9095

VISALIA

1811 W. Sunnyside Ave.
Visalia, CA 93277
Phone: 559-635-3720
Fax: 559-733-5006

Hanford

Fax: 559-582-3510

Toll Free:

1-877-SEIU-521

www.seiu521.org

July 15, 2008

Honorable Chairpersons
Santa Cruz County Civil Service Commission
County of Santa Cruz
701 Ocean Street, Third Floor
Santa Cruz, CA 95060

Sent by Facsimile and U.S. Mail

Dear Honorable Chairperson and Commissioners:

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We request the Commission defer development of a formal response to the Grand Jury report at its July meeting, and instead call a special meeting in September to review the issues and formulate a response prior to the October deadline. We also request that the subcommittee composed of Commissioners Barsi and Taren hold a hearing prior to the September meeting to take testimony of all interested parties in the community in order to gather information for a recommendation of the full Commission at its September special meeting.

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Thank you for your consideration of this request.


Gary Klemz

Board Officers and Members

cc: Personnel Director (Facsimile)

GK:pb opeiu2@aiff-cio@2008 SEIU521/CTW-CLC SCrzCounty/CivilServiceComm/GrandJuryReportRequest-071508

CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 2ND FLOOR • OAKLAND, CALIFORNIA 94612

July 8, 2008

HONORABLE CITY COUNCIL
CITY OF OAKLAND

RE: AN ORDINANCE PROHIBITING RETALIATION AGAINST EMPLOYEES
WHO ACT AS WHISTLEBLOWERS

Dear Members of the Council:

As elected officials of the City of Oakland we believe it is our responsibility to encourage and grow a culture of transparency and accountability, so that citizens may have faith in the integrity, openness, competence, and fairness of their government. One of the foundational cornerstones to creating a culture of transparency and accountability is to both welcome and protect whistleblowing by City employees. A whistleblower is an employee who discloses information that they reasonably believe is evidence of illegality, gross waste, gross mismanagement, abuse of power, or substantial and specific danger to public health and safety. In the government environment 40% of fraud is detected through tips from employees and the public¹. Affording this protection to whistleblowers reinforces that public servants best serve the citizenry when they can be candid and honest without reservation in conducting the people's business.

SUMMARY

This chapter protects City officers and employees against retaliation for Whistleblowing. Whistleblowing is defined as filing a complaint with or providing information to the City Auditor which, if true, would constitute: a work-related violation by City officer or employee of any law or regulation; fraud, waste or mismanagement of City assets or resources; gross abuse of authority; specific and substantial danger to public health or safety due to an act or omission of a City official or employee; or use of a City office or position or of City resources for personal gain. To the extent permitted by law, this chapter also protects the identity of anyone reporting information about an improper governmental action unless the employee waives that confidentiality in writing.

¹ 2006 Report of the Association of Certified Fraud Examiners on Occupational Fraud.

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN 26 PM 7:09

Complaints of retaliation will be investigated by the City Auditor unless the complaint involves the Office of the City Auditor, at which time the City Attorney would be responsible for conducting the investigation. Penalties will include disciplinary action up to and including discharge and civil penalties not to exceed \$5,000. The complaint must be filed no later than 180 days after the date of the retaliation.

FISCAL IMPACT

Additional resources in the Office of the City Auditor will be required to investigate increased whistleblower tips and to process complaints of retaliation from whistleblowers. Addressing waste and misuse of public resources in the City of Oakland will result in greater efficacy of City operations and increased fiscal accountability. The actual amount of City resources that will be saved by this ordinance is not quantifiable at this time, however encouraging whistleblowing should result in a cost to savings ratio of no less than 4 to 1. For example in the first year of operation the City of Los Angeles Controller's Hotline resolved 383 cases which identified millions in potential savings due to waste, mismanagement and fraud.

BACKGROUND

City residents and businesses rely upon the City of Oakland to provide many important services like maintenance and cleaning of streets and parks, police and emergency services, recreation programs and business services, all of which directly affect the quality of life in Oakland. Recognizing the budgetary limits the City often faces, preservation and enhancement of such services can be achieved only by ensuring that City resources are utilized in an efficient, cost-effective manner, and that government waste and abuse are minimized.

City employees are generally those who best understand how the City operates and the most aware of wasteful, unethical or illegal behavior within the City government. However, City employees are usually concerned that if they blow the whistle they will be subject to many forms of retaliation, including discrimination, harassment, intimidation, alienation, and in some cases even termination. Unfortunately, these concerns are not unfounded, as many whistleblowers in other organizations have been the subject of retaliation in the past as a result of their disclosures. Reassurance that City officials will protect whistleblowers from retaliation, and that legal safeguards are in place, will create an environment where employees feel that disclosing their concerns is acceptable and encouraged.

Encouraging whistle-blowing is an important management practice to create an environment where waste, fraud, or mismanagement issues are detected early and promptly addressed. Furthermore, whistleblower programs can also act as a means of collecting employee concerns, improving internal communication, collecting information regarding emerging issues before they become crises, and therefore enhancing the organization's overall system of internal controls.

Similar Whistleblower Protection ordinances have been adopted by several Cities including San Francisco, Los Angeles and Seattle as well as the University of California and the State of California.

The former City Auditor initiated a Good Government (Whistleblower) Program. The program's intent was to be a fair, neutral and confidential process through which employees and citizens could file complaints of wrong doing, dereliction of duty and improper behavior. Upon taking Office, the current City Auditor found that the program did not have adequate policies and procedures to afford the necessary level of assurance that claims would be properly evaluated and investigated. Additionally, the former program afforded no protection for whistleblowers, which gravely concerned the City Auditor. The Office of City Auditor is currently reorganizing this Whistleblower Program based upon best practices of other municipal audit organizations, and this ordinance is a fundamental piece of that process.

The City's Public Ethics Commission will continue to address complaints pertaining to the laws over which that Commission has jurisdiction, which include the Oakland Campaign Reform Act, Oakland Sunshine Ordinance, Limited Public Financing Act, Code of Conduct for City Officials, Conflict of Interest regulations, Lobbyist Registration Act, and Oakland False Endorsement In Campaign Literature Act.

Proposed Legislation

This chapter protects City officers and employees against retaliation for Whistleblowing. Whistleblowing is defined as filing a complaint with or providing information to the City Auditor which, if true, would constitute: a work-related violation by City officer or employee of any law or regulation; fraud, waste or mismanagement of City assets or resources; gross abuse of authority; specific and substantial danger to public health or safety due to an act or omission of a City official or employee; or use of a City office or position or of City resources for personal gain. To the extent permitted by law, this chapter also protects the identity of anyone reporting information about an improper governmental action unless the employee waives that confidentiality in writing.

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SUSTAINABLE OPPORTUNITIES

Economic: Encouraging whistleblowing will help to ensure that City resources are utilized in an efficient, cost-effective manner, and that government waste and abuse are minimized, ultimately saving City funds and resources while improving the quality of government.

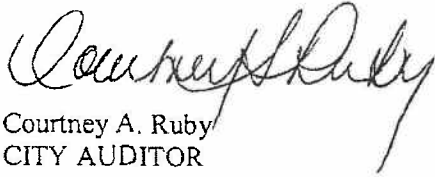
Environmental: Encouraging whistleblowing will help to ensure that there are more City resources available to provide environmental services in the City of Oakland, and will also save resources.

Social Equity: Encouraging whistleblowing will help to ensure that there are more City resources available to provide services to all Oakland residents.

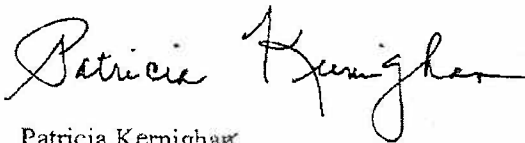
ACTION REQUESTED OF THE CITY COUNCIL

Adopt the attached Ordinance creating a whistleblower protection ordinance for the City of Oakland.

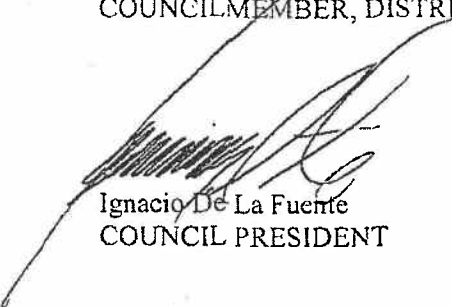
Respectfully submitted,



Courtney A. Ruby
CITY AUDITOR



Patricia Kernighan
COUNCILMEMBER, DISTRICT 2



Ignacio De La Fuente
COUNCIL PRESIDENT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER _____

2008 JUN 26 PM 7:10

Nancy Collins
CITY ATTORNEY

OAKLAND CITY COUNCIL
ORDINANCE NO. _____ C.M.S.

**ORDINANCE PROHIBITING RETALIATION AGAINST EMPLOYEES
WHO ACT AS WHISTLEBLOWERS**

WHEREAS, the City of Oakland is committed to rooting out waste, fraud and abuse and to maintaining the highest standards of behavior by its officials and employees; and

WHEREAS, the City Auditor maintains a Whistleblower Program for the purpose of receiving individual complaints concerning the quality and delivery of government services, wasteful and inefficient City government practices, misuse of City funds, and improper activities by City officers and employees; and

WHEREAS, the City of Oakland has an interest in protecting the integrity of the City Auditor's Whistleblower Program and City government employees are encouraged to participate in the City Auditor's Whistleblower Program; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

- Section 1 Title and Purpose
- Section 2 Whistleblower Defined
- Section 3 Whistleblower Identity
- Section 4 Retaliation Prohibited
- Section 5 Administrative Complaint of Retaliation
- Section 6 Retaliation Defined
- Section 7 City Defined
- Section 8 Burden of Establishing Retaliation
- Section 9 Discipline
- Section 10 Civil Penalties

SECTION 1. TITLE AND PURPOSE. This Chapter shall be known as the Whistleblower Ordinance. The purpose of this Ordinance is to protect all City government employees who act as Whistleblowers from retaliation.

SECTION 2: WHISTLEBLOWER DEFINED. Whistleblower is defined as an officer or employee who reports or otherwise brings to the attention of the City Auditor any information which, if true, would constitute one of the following: a work-related violation by a City officer or employee of any law or regulation; fraud, waste or mismanagement of City assets or resources; gross abuse of

authority; a specific and substantial danger to public health or safety due to an act or omission of a City official or employee; or use of a City office, position or resources for personal gain.

SECTION 3. WHISTLEBLOWER IDENTITY. To the extent permitted by law, the identity of anyone reporting information to the City Auditor about an improper governmental action shall be treated as confidential unless the employee waives his or her confidentiality in writing.

SECTION 4. RETALIATION PROHIBITED. No officer or employee of the City of Oakland shall use or threaten to use any official authority or influence to restrain or prevent any other person who is acting in good faith and upon reasonable belief as a Whistleblower.

No officer or employee of the City of Oakland shall use or threaten to use any official authority or influence to cause any adverse employment action as a reprisal against a City officer or employee who acts as a Whistleblower in good faith and with reasonable belief that improper conduct has occurred.

SECTION 5. ADMINISTRATIVE COMPLAINT OF RETALIATION. Any officer or employee who believes that he or she has been subject to an adverse employment action as a result of being a whistleblower may file a complaint of retaliation with the City Auditor within 180 days of the alleged misconduct. The City Auditor shall thereupon investigate the complaint. If the Office of the City Auditor is named in the complaint, the complaint shall be directed to the City Attorney for investigation. The investigation of a retaliation complaint should be completed in eight (8) weeks or less, absent extraordinary circumstances. Any reports regarding retaliation are confidential and not subject to disclosure.

SECTION 6. RETALIATION DEFINED. Retaliation is defined as any adverse employment action, including discharge, discipline or demotion.

SECTION 7. CITY DEFINED. City is defined as the City of Oakland, its agencies, departments, boards and commissions.

SECTION 8. BURDEN OF ESTABLISHING RETALIATION. In order to establish retaliation, a complainant must demonstrate by a preponderance of the evidence that the complainant's participation in the City Auditor's Whistleblower Program was a substantial motivating factor in the adverse employment action. The supervisor or manager may rebut this claim if he or she demonstrates by a preponderance of the evidence that he or she would have taken the same employment action irrespective of the complainant's participation in the City Auditor's Whistleblower Program.

SECTION 9. DISCIPLINE. Any manager, supervisor or employee of the City of Oakland who knowingly engages in conduct prohibited by this Ordinance shall be disciplined, up to and including discharge.

SECTION 10. CIVIL PENALTIES. Any manager, supervisor or employee of the City of Oakland who believes that he or she has been the subject of retaliation in violation of this Ordinance may bring a civil action against the City officer or employee who committed the violation. The civil

penalty for such a violation shall not exceed five thousand dollars (\$5,000.00). Such action must be filed no later than one year after the date the manager, supervisor or employee files a complaint of retaliation with the City.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID and
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 FEB 14 PM 5:19

CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 2ND FLOOR • OAKLAND, CALIFORNIA 94612

February 14, 2008

HONORABLE CITY COUNCIL
CITY OF OAKLAND

**RE: AN ORDINANCE PROHIBITING RETALIATION AGAINST EMPLOYEES
WHO ACT AS WHISTLEBLOWERS**

Dear Members of the Council:

As elected officials of the City of Oakland we believe it is our responsibility to encourage and grow a culture of transparency and accountability, so that citizens may have faith in the integrity, openness, competence, and fairness of their government. One of the foundational cornerstones to creating a culture of transparency and accountability is to both welcome and protect whistleblowing by City employees. A whistleblower is an employee who discloses information that they reasonably believe is evidence of illegality, gross waste, gross mismanagement, abuse of power, or substantial and specific danger to public health and safety. In the government environment 40% of fraud is detected through tips from employees and the public¹. Affording this protection to whistleblowers reinforces that public servants best serve the citizenry when they can be candid and honest without reservation in conducting the people's business.

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This chapter protects City officers and employees against retaliation for Whistleblowing. Whistleblowing is defined as filing a complaint with or providing information to the City Auditor which, if true, would constitute: a work-related violation by City officer or employee of any law or regulation; fraud, waste or mismanagement of City assets or resources; gross abuse of authority; specific and substantial danger to public health or safety due to an act or omission of a City official or employee; or use of a City office or position or of City resources for personal gain. To the extent permitted by law, this chapter also protects the identity of anyone reporting information about an improper governmental action unless the employee waives that confidentiality in writing.

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BACKGROUND

City residents and businesses rely upon the City of Oakland to provide many important services like maintenance and cleaning of streets and parks, police and emergency services, recreation programs and business services, all of which directly affect the quality of life in Oakland. Recognizing the budgetary limits the City often faces, preservation and enhancement of such services can be achieved only by ensuring that City resources are utilized in an efficient, cost-effective manner, and that government waste and abuse are minimized.

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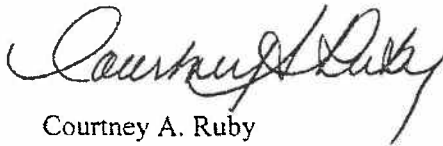
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Social Equity: Encouraging whistleblowing will help to ensure that there are more City resources available to provide services to all Oakland residents.

ACTION REQUESTED OF THE CITY COUNCIL

Adopt the attached Ordinance creating a whistleblower protection ordinance for the City of Oakland.

Respectfully submitted,



Courtney A. Ruby
CITY AUDITOR



Ignacio De La Fuente
COUNCIL PRESIDENT

OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY
[Signature]
CITY ATTORNEY

INTRODUCED BY COUNCIL MEMBER _____
2008 FEB 14 PM 5:19

OAKLAND CITY COUNCIL
ORDINANCE NO. _____ C.M.S.

**ORDINANCE PROHIBITING RETALIATION AGAINST EMPLOYEES
WHO ACT AS WHISTLEBLOWERS**

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IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID and
 PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

4/21/08

Civil Service Commission
Patricia Fink, Chair
Board Chambers
701 Ocean Street
Santa Cruz, CA 95060

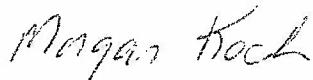
Dear Commissioners:

Just as Mr. Taren and Mr. Barsi made a very good case at last Thursday's meeting for making the Whistleblower program independent of the County government it was designed to oversee, so SEIU has made a similar very good case for working toward making the Civil Service Commission independent of the Department of Personnel -- again, which it was designed to oversee for the benefit of taxpayers and communities, the County and staff morale.

Without this independent oversight and without SEIU involvement in the process to select another Personnel Director, the County of Santa Cruz runs the risk of having the same thing happen again -- the development of a Personnel Director that abuses their position to the point that they are forced to resign. Can the County of Santa Cruz really afford that -- especially with the budget cuts that are going on? How much has the hiring of a new Director already cost the taxpayers of Santa Cruz? Can the Commission and the County of Santa Cruz really afford to ignore SEIU input during this hiring process?

I appreciate your attention to this important matter for the sake of moving toward an independent Commission and the hiring of a Personnel Director who is fair and objective and who is willing and able to work diplomatically with all parties at the negotiations table for the overall benefit of everyone.

Sincerely yours,



Morgan Koch
Santa Cruz County Resident, Taxpayer & Employee
Member & Steward, SEIU Local 521
PO Box 825
Santa Cruz, CA 95061-0825

Mailed to all commissioners 5/2/08 JMK

1X a



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310, SANTA CRUZ, CA 95060-4073
(831) 454-2600 FAX: (831) 454-2411 TDD: (831) 454-2123

Morgan Koch
P. O. Box 825
Santa Cruz, CA 95061-0825

Dear Mr. Koch:

Please excuse my tardiness in responding to your letter of April 21, 2008. I have been out of town and am now playing catch-up.

As you probably know, I was not at the April Civil Service Commission meeting and so am not fully cognizant of everything that was discussed. I do, however, want to thank you for your input and comments and hope we will continue to have positive discourse on these important issues.

Very truly yours,

A handwritten signature in cursive script that reads "Patricia Fink".

Patricia Fink, Chair

IX b.



COUNTY OF SANTA CRUZ

CIVIL SERVICE COMMISSION

701 OCEAN STREET, SUITE 310, SANTA CRUZ, CA 95060-4073
(831) 454-2600 FAX: (831) 454-2411 TDD: (831) 454-2123

Date: June 20, 2008
To: Civil Service Commissioners
From: Laurie Hill, Personnel Analyst *LH*
Subject: Enclosed Report for the Grand Jury

Please find enclosed the Grand Jury's Final Report entitled: "Handpicked for the Job?"

The Commission is required to respond within 90 days. I have included the instructions for respondents.

This report will be included on your July 17 quarterly meeting agenda.

Cc: Ajita Patel, Acting Personnel Director

1xc

Santa Cruz County Grand Jury



2007 - 2008

Final Report



County of Santa Cruz

GRAND JURY
701 OCEAN STREET, ROOM 318-I
Santa Cruz, Ca 95060
(831) 454-2099

June 2008

Dear Citizens of Santa Cruz County,

It is with great pride that we present the 2007-2008 Santa Cruz County Grand Jury Final Report. State law charges the Grand Jury with review and oversight of county agencies and entities that receive county funds. Our task is to investigate and report on county operations to ensure they are being administered efficiently, honestly, and in the best interests of citizens. The Grand Jury believes this report will add to your understanding of issues within Santa Cruz County. We hope that the information presented, the issues raised, and the problems found will contribute to a more responsive, accessible, and responsible government.

This report is a compilation of information provided by your public officials, research by the Grand Jury, and the insights we gained during our interviews. Our charge is to make sure the information is correct and presented to you without bias. We have done our best to be objective, and we hope that much good comes from our efforts.

We would like to thank the various entities and county employees who took the time to educate us and answer our questions. I would personally like to thank my fellow grand jurors who have given generously of a most precious commodity, their own time.

Sincerely,

Pat Rex, Foreperson
2007-2008 Santa Cruz County Grand Jury

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Handpicked for the Job?

Allegations of unfair hiring practices by Santa Cruz County

On November 16, 2007, the *Santa Cruz Sentinel* reported that a Grand Jury complaint had been filed by the Service Employees International Union (SEIU). The article described the union's dissatisfaction with the County's whistleblower program and hiring practices. Similar complaints had been previously lodged by SEIU with the County's Civil Service Commission during its July 19, 2007, meeting.

Grievances submitted to the Grand Jury are normally confidential. The jury was concerned whether this complaint was really intended for its investigation or was instead designed only to generate publicity for the union's allegations.

Nonetheless, the Grand Jury moved forward with an investigation focused on the following:

- Allegations of improper provisional hiring practices
- Allegations of nepotism and favoritism in hiring
- The County's whistleblower program

Summary

Provisional hiring practices. The Personnel Director can authorize temporary provisional appointments without any examinations or competition among eligible applicants. Decisions for these hires are often made by department heads or managers. The bulk of the provisional appointments were made within only three of the 27 county departments.

When the position for which they were hired temporarily is permanently filled, provisionally appointed employees are selected over other applicants most of the time. Managers can give their preferred candidates a clear edge without violating civil service rules.

When used sparingly, provisional appointments are a necessary and positive component of the County's hiring process. When used excessively, these appointments are an abusive work-around of merit hiring principles. To ensure proper use in the future, the Grand Jury wants the Civil Service Commission to carefully examine provisional appointments from time to time to assure that "gaming the system" will not be tolerated in Santa Cruz County.

Nepotism and favoritism. The civil service rules contain a clear and precisely-worded nepotism policy that has not been violated. Hiring rules specifically referring to "favoritism" or how to avoid it do not exist.

Whistleblower program. The Auditor-Controller's Office has established a whistleblower program for citizens and employees to report alleged abuses of all kinds by the County. During 2007, out of a total of 15 whistleblower complaints investigated, only four involved personnel issues and hiring practices.

When they contact the whistleblower group, county employees are *not* told their complaints will be forwarded to a department head. Employees in small workgroups can be identified as the complainants and exposed to potential retaliation without ever understanding this would be the inevitable result of their complaints. A whistleblower program independent of County government should be tailored to avoid such problems.

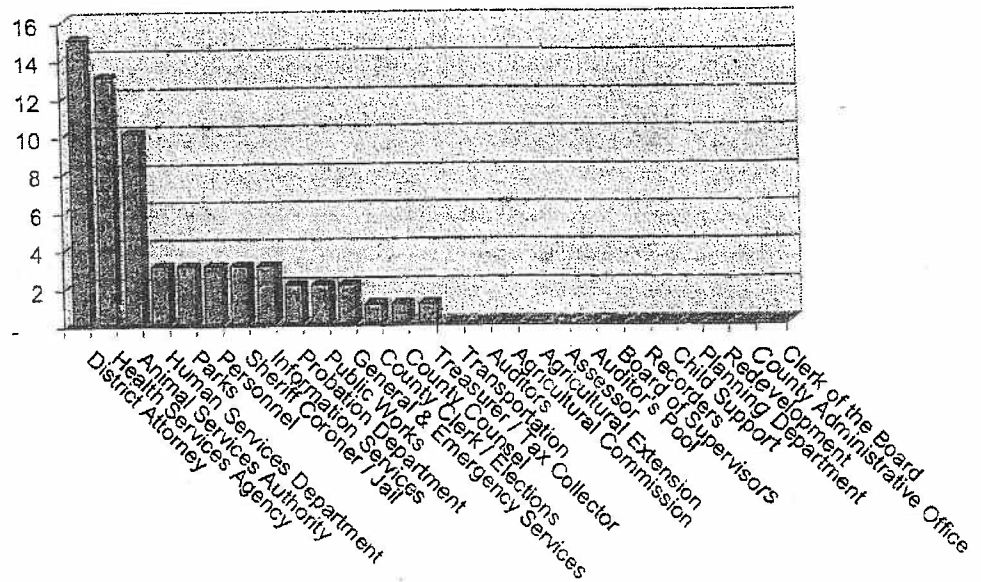
Findings

1. Service Employees International Union (SEIU) has lodged a complaint regarding hiring practices and the county's whistleblower program with the Civil Service Commission.

Provisional Hiring Practices

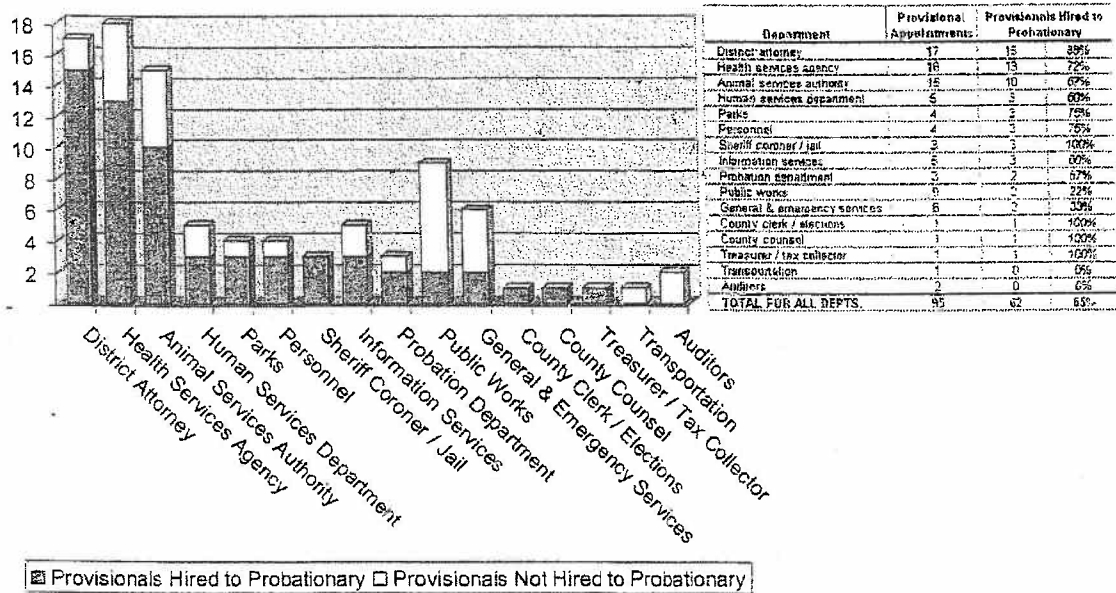
2. During calendar years 2006 and 2007, 62 provisional appointees were hired to permanent positions. These represented just over two percent of the 1,733 total County hires for that time period. (Despite making two requests, the Grand Jury was unable to obtain the number of total hires per department.)
3. Three departments – District Attorney, Health Services Agency (HSA) and Animal Services Authority – accounted for 38 -- or more than 60 percent -- of the provisional appointments hired to permanent positions by the County during 2006 and 2007. Thirteen of 27 departments hired no provisional appointments to permanent positions at all during the last two years. [See Bar Graph 1]

Bar Graph 1. Provisional appointments hired to permanent positions (Calendar years 2006 - 2007, all County departments)



- Provisionally appointed employees have a clear advantage over other candidates competing for permanent positions the provisionals temporarily occupy. For the last two calendar years, nearly two-thirds of all County provisional appointees were hired to permanent positions; for individual departments the success rate was as high as 100 percent. [See Bar Graph 2]

Bar Graph 2. Provisional appointments successfully hired to permanent positions
(Calendar years 2006 - 2007, County departments with provisional appointments only)



- Santa Cruz County code charges the Civil Service Commission with the responsibility for the process of approving provisional appointments. This responsibility has been delegated to the Personnel Director.
- Unless there is an appeal, there is no formal oversight by the Civil Service Commission itself of a provisional appointment.
- Civil service rules provide for the creation of “eligible lists” of applicants’ names ranked by their examination scores (written, oral, or training and experience ratings). These lists can remain in effect for a maximum period of two years or be abolished before that term by the Personnel Director. Civil service rules can be interpreted to allow provisional appointments after the abolishment or expiration of one eligible list and before a new one is created, or even before any valid eligible list exists.
- County management claims to be unaware of specific employee complaints regarding misuse of the provisional appointment process.

Nepotism and Favoritism

9. Civil service rules prohibit the hiring of first or second degree relatives (spouses, parents, children, grandchildren, or siblings) by department heads. These same relatives may not be given positions as direct reports or be within supervisory line of authority. Department heads are also "discouraged" from appointing first or second degree relatives to volunteer assignments within their departments. However, first or second degree relatives may be hired by different department heads, or may work together within the same department as long as one does not supervise the other.
10. This Grand Jury was unable to confirm any violations of County nepotism policy.
11. This Grand Jury was unable to find County administration and personnel code or civil service rules defining or prohibiting "favoritism."
12. Some County employees with hiring practices complaints are not comfortable meeting with the CAO, the Personnel Director, or their representatives, fearing retaliation.
13. County code charges the Civil Service Commission with assuring that, whenever possible, merit employment principles are followed.
14. The Brown Act restricts the Civil Service Commission's ability to guarantee confidentiality to employees complaining about the County's hiring practices because all meetings among three or more commissioners must be public. To conform to the Brown Act and yet still provide a confidential forum for County employee complaints, the Civil Service Commission created an ad hoc committee in 2007 consisting of two commissioners to hear complaints from SEIU members.

Whistleblower Program

15. Santa Cruz County's whistleblower program was established by the Auditor-Controller's Office in early 2005, possibly stimulated by federal corporate governance legislation passed a few years earlier. The program continues to be administered by the Auditor-Controller's Office today.
16. Complaints received by the whistleblower program can address any part of the county's operation, not just personnel issues or hiring practices.
17. Code compliance complaints are referred to the Planning Department.
18. The program was contacted 32 times during calendar year 2007. Fifteen were determined to be outside the scope of the program and two were general questions and referred elsewhere. The remaining 15 were opened as whistleblower cases; 12 were closed during 2007 and three were still open at the end of the year.
19. Four whistleblower cases involved complaints of improper hiring practices. Two complaints were found to be without merit and closed while two others remained under investigation at the end of 2007.
20. Employee complaints received by the whistleblower program are given to department heads for investigation and resolution; employees are not informed in advance about

this policy. The Grand Jury received testimony that whistleblowers could be easily identified by coworkers or supervisors.

21. Department heads are given six months to report the results of their investigations to the Auditor-Controller's Office. The CAO and Personnel Director may also be notified about the complaints.
22. Although with careful scrutiny the whistleblower program link can eventually be located, many people have difficulty finding it on the county's website. Typing "whistleblower hotline" into the search box results in "no matches."



Search results

No matches were found for 'whistleblower and hotline'

Recommendations

1. County management and SEIU should meet regularly to review specific employee complaints concerning hiring practices.

Provisional Hiring Practices

2. The Civil Service Commission should periodically review individual provisional appointments to ensure the system is not being abused.

Nepotism and Favoritism

3. The Board of Supervisors should direct the Personnel Department to develop and maintain a record of all first and second degree relatives employed by the County and to provide a report on a regular basis to the Civil Service Commission.
4. The Civil Service Commission should permanently create a standing committee consisting of two commissioners to hear and investigate personnel and hiring practice complaints. Upon conclusion of each of its investigations, this committee should report its findings and recommendations to the full commission.

Whistleblower Program

5. The County website's search function should be updated so that typing in the keyword "whistleblower" results in a path to the hotline information.
6. Effective immediately, all employees complaining to the whistleblower program should receive full disclosure regarding the details of the resolution process for their particular complaint. Specifically, they should be told if their complaint will be forwarded to a department head for action.
7. Preliminary results of whistleblower investigations should be required within 60 days of the original complaint.
8. The Board of Supervisors is encouraged to create a body independent of county government to serve as the first point of contact for all whistleblower complaints;

from there they can be forwarded to the appropriate entity for investigation and resolution.

Responses Required

Respondent	Findings	Recommendations	Respond With Respond By
County of Santa Cruz Board of Supervisors	5, 10, 21	1 – 8	60 days September 1, 2008
County of Santa Cruz Civil Service Commission	5, 10, 13	2, 4	90 days October 1, 2008
County of Santa Cruz Personnel Department	5, 10	3	90 days October 1, 2008
County of Santa Cruz Auditor-Controller's Office	19, 21	5 – 7	90 days October 1, 2008

Sources

- County of Santa Cruz Civil Service Commission Agenda, April 17, 2008.
- County of Santa Cruz Civil Service Commission Minutes, January 18, April 19, July 19 and October 18, 2007, and January 17, 2008.
- County of Santa Cruz Code, Title 2, Administration and Personnel, Chapter 2.46, Civil Service Commission.
- County of Santa Cruz, General Representation Unit, Memorandum of Understanding, September 11, 2007 – September 10, 2010.
- County of Santa Cruz management and staff.
- County of Santa Cruz Personnel Department website:
<http://sccounty01.co.santa-cruz.ca.us/personnel/index.htm>
- Letter from Auditor-Controller, Mary Jo Walker, and County Administrative Officer, Susan Mauriello, to the County of Santa Cruz Board of Supervisors, *Whistleblower Hotline Annual Report*, March 21, 2008.
- Personnel Regulations and References of Santa Cruz County, Section 130, Civil Service Rules.
- Ralph M. Brown Act: http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf
- Sarbanes-Oxley Act of 2002:
<http://fl.findlaw.com/news.findlaw.com/hdocs/docs/gwbush/sarbanesoxley072302.pdf>
- “SEIU Questions County Hiring Practices; Allegations of Nepotism Taken to Grand Jury,” *Santa Cruz Sentinel*, November 16, 2007.

NOTE: The results of the Civil Service Commission investigation were not yet available when this report was completed.

Instructions for Respondents

California law (PC §933.05) requires that those responding to the Grand Jury Report must prepare responses for individual findings and recommendations within the Grand Jury Report rather than a generalized response to the entire report. Explanations for disagreements must be provided. (PC § 933.05 is included in its entirety at the end of this section.)

Please follow the format below when preparing your response.

Response Format

1. Find the response grid that appears near the end of each Grand Jury report, look for the row with the name of the entity you represent, and then only respond to those Findings and/or Recommendations listed on that row.
2. Provide the title and page number from the Grand Jury report.
3. Provide the date of your response.
4. For Findings
 - a. Provide a copy the original Finding.
 - b. Respond with one of the following:
 - i. **AGREE.**
 - ii. **PARTIALLY AGREE** (specify and explain disagreement).
 - iii. **PARTIALLY DISAGREE** (specify and explain disagreement).
 - iv. **DISAGREE** (specify and explain disagreement).
5. For Recommendations
 - a. Provide a copy the original recommendation.
 - b. Respond with one of the following:
 - i. **Has been implemented.**
 - ii. **Has not yet been implemented, but will be implemented in the future** (specify expected implementation date).
 - iii. **Requires further analysis** (specify the type of analysis required and the expected completion date, not to exceed six months)
 - iv. **Will not be implemented** (either because it is not warranted or is unreasonable; please include an explanation).
6. If responding to more than one report, respond to each in a separate document or on separate pages of one document.
7. For an example, see Response Report to the 2006-2007 Santa Cruz County Grand Jury Final Report: <http://www.co.santa-cruz.ca.us/grandjury>.

If you have questions about the response report, please contact the Grand Jury by calling (831) 454-2099 or by email: grandjury@co.santa-cruz.ca.us.

Where to Respond

1. Send a hard copy of your response to:
The Honorable Judge Paul Marigonda
Santa Cruz Superior Court
701 Ocean Street
Santa Cruz, CA 95060
2. Send an electronic version of your response via email to the Grand Jury:
grandjury@co.santa-cruz.ca.us. Please send all responses as either Microsoft Word or Adobe PDF files.

Due Dates

Elected officials or administrators are required to respond within sixty days of the Grand Jury Report's publication; responses by the governing body of any public entity are required within ninety days.

March 7, 2008

Santa Cruz County Civil Service Commission

c/o: Robert Taren
911 Cedar Street
Santa Cruz, CA 95060

Michael Barsi
9011 Soquel Drive, Suite C
Aptos, CA 94=5003

RE: SANTA CRUZ CIVIL SERVICE SYSTEM AND POSSIBLE IMPROVEMENTS

I understand you are conducting some sort of investigation of issues raised by employees regarding the administration of the Santa Cruz County Civil Service System. I would like you to consider the comments and suggestions on this matter below. I am the former Employee Relations Manager for Santa Cruz County. I retired from the County in 1996, but have some sense of what has happened since then and of the current problems regarding the Civil Service System and Personnel Department in particular. My comments are based on 40 years of experience in personnel work in a number of agencies, including over 20 years with Santa Cruz County.

Barriers

Before addressing what the Commission might do to improve or mend some of the current problems with the Santa Cruz County Limited Merit System, it is necessary to acknowledge and briefly discuss some of the barriers to change. These include:

Since the early 1990's, the County Administrative Officer, Susan Mauriello, has been the de facto personnel director. All decisions of consequence are made only at the direction or with the acquiescence of the CAO. A change in the Personnel Director or system without a change in CAO will not result in any major on-going change.

The Personnel Department has and controls all information that is provided or not provided to the Commission. In fact, the Commission has no staff except for appeal hearings, and has no way of knowing if the information it receives is correct or incomplete. Unfortunately, there is little that can be done to remedy this problem.

Despite the requirements in County Code Section 2.46.040 for membership on the Civil Service Commission, many appointees of the Board of Supervisors have no personnel, management or governmental experience and are not well qualified for to oversee or assess how well the Civil Service System is working.

There is no outside regulatory or oversight agency. State Merit System Services used to provide some limited review when health, emergency services and social services staff were covered but there is no review of significance currently.

What might the Commission do to strength the Civil Service system?

Survey other Civil Service Commissions in California counties. It is unlikely that any significant information will be obtained, but you never know until you try.

Conduct periodic, confidential surveys of department heads and employee organization representatives regarding problems and possible solutions. It is essential that this be anonymous and by-pass the Personnel Department and CAO's Office.

Create a form of "Commission hotline" where employees can raise system issues with the Commission independent of the Personnel Department. This could take the form of a message-only phone with very specific instructions that a designated Commissioner would check each day or week. Current County regulations have all correspondence/communications to the Commission go through the Personnel Department. It must be explicit that the hotline cannot be used by employees who are facing disciplinary, but is solely to alert the Commission to possible abuses by the system and Personnel.* This is no panacea, but avoids the present situation where issues are being consider far after the fact.

As you undoubtedly know, "whistleblower" laws for public agencies have no teeth---there are no penalties that apply and, most importantly, no protection for the whistleblower. The Commission should consider asking the Board, perhaps on an individual basis, to consider adopting some form of whistleblower regulations just for the County that protect the whistleblower. The County will oppose this as it represents some potential liability for the County but this can be limited by carefully crafting the regulations. The alternative is that, despite the appearance of a Civil Service system, there really is none since the Commission has no practical oversight of the system and little authority.

Take a more active role in those matters in which the Commission has a direct role. The most obvious of these is the recruitment for the Personnel Director where the Commission is supposed to establish the recruitment and examination process with input from the CAO and in which the Commission is required to take an active part per County Code Section 2.16.030. If done in the past this might have prevented significant problems. For example, the class specification for Personnel Director requires five years of professional personnel experience, three years of which should be in a supervisory capacity in a public agency. Dania Wong had no professional personnel experience, and her supervisory experience was in legal aid, and yet was still appointed.

*Commission members being contacted by employees facing disciplinary action has been a problem for the Commission over the years, but has always been successfully dealt with by the Commissioner saying immediately that it is inappropriate and anything being said will be ignored.

Another example where the Commission might and should take an active role as overseer of the system is in the area of classification. With a few minor exceptions, none of the "clerical/administrative" jobs of the County have been studied since 1978, and the large majority of other County classes have not been studied since 1982. Ideally, positions should be studied every five years to take into account changes in laws and technology, organizational changes, and graduation accretion in duties. While it is not economically feasible for a California county to studies this frequently, a classification plan that hasn't been updated in 35 to 40 years is horrific. The Commission may wish to recommend to the Board that a systematic approach be adopted to update the plan (e.g., study 20% of the position every year for the next five years).

One thing that the Commission can to do immediately to prevent further abuse has to do with alternate staffing. Under Civil Service Rule III, L, the Commission can, and has, delegated responsibility to the Personnel Director for designating which positions may be alternately staffed and to which level. Alternate staffing is not appropriate above the journey level class but has been misapplied in a number of cases in the County. A prime example is in the Personnel Department, where an employee can be promoted at will through the second supervisory level on a non-merit (i.e., no exam, no competition) basis---from Assistant Personnel Analyst, to Associate Personnel Analyst [the journey level] to Senior Personnel Analyst, to Principal Personnel Analyst. The Commission should take back authority for this. Designation of positions for alternate staffing is not an urgency matter and can occur at the quarterly meetings of the Commission. Any request to the Commission should be supported by copies of the class specifications for the classes in question, as these designate the level (e.g., trainee, journey, advanced journey, lead worker, supervisor) of the class.

The Personnel Department has published a number of policies and procedures and identified other areas where these are needed. (See **Attachment 1**, the Table of Contents for the Personnel Administrative Manual, which is on the Personnel Department web-site under Regulations, Policies and Procedures.) As you will note, very few of the policies have been updated or maintained since 1993-94. Several existing policies were actually deleted and are shown as "under construction" (e.g., Physical Job Requirements/Physical Screening and Examination). All of these should be brought up-to-date within a year, including those which are coded as "under construction/development."

The Personnel Department has not published an updated version of the Personnel Regulations since 1993, with the exception of the Civil Service Rules which are shown as last update in 1994. [Also on Personnel Department web-site.] There have been myriad changes since then. This makes it difficult, if not impossible, for managers, employees and the public to access accurate and current

information on these critical matters. The Personnel Department should be able to publish an accurate and current version of this within four months.

A number of the current staff of the Personnel Department were selected on the basis of their obedience and loyalty to the former Personnel Director rather than on technical skills and knowledge. Some may not be qualified; many are not properly trained because their supervisors had little or no professional personnel experience. It will be difficult to remedy this situation, but two related actions will help. One is to periodically (e.g., every two years) administer a comprehensive written exam on all phases of personnel work to professional and technical staff. This will identify deficiencies and areas where additional training/supervision or other remedial action is required on an individual or group basis.

Please contact me by phone or e-mail as shown below if you have any questions or desire other information.

Sincerely,

Pruit Tully
3095 Marina Drive #29
Marina, CA 93933
Home: (831) 884-0173 Cell: (831) 566-2416
e-mail: ptully@valleywater.org

SAN JOSE

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*** VISALIA**

Phone: (559) 733-4779
Fax: (559) 733-5006

*** HANFORD**

Phone: (559) 582-3463
Fax: (559) 582-3510

* Call for appointment



February 14, 2008

Honorable Chairpersons
Santa Cruz County Civil Service Commission
County of Santa Cruz
701 Ocean Street, Third Floor
Santa Cruz, CA 95060

Dear Honorable Chairperson and Commissioners:

This letter is in response to the "Confidential Communication" of October 16, 2007 by Ajita Patel and Rama Khalsa, responding to union concerns that have been brought before the Commission over the past 12 months. As was noted at your meeting, union representatives did not receive this October memo until 4 days before your January meeting, 1/18/08.

The "Confidential Communication" does very little to address the concerns brought before the commission. This "report back" attempts to clarify areas of managerial responsibility regarding the Whistleblower program and certain job hires, and give the stamp of approval to countywide personnel practices through generalizing results of a limited audit of the one department's personnel program. The letter also simply states disagreement with allegations of unfair practices without providing any evidence to support their claims. In our view, the report back bolsters our contention that an investigation by an independent party needs to proceed in order to determine whether employee allegations have merit.

Below, we address some of the specifics in the report back of Patel and Khalsa:

1. *The memo does not respond to clear evidence of the need for a protected and confidential avenue for county employees to report illegal, unethical or otherwise improper practices in county government without fear of reprisal.* According to direct testimony before the Commission, for example, the 20-year-plus county employee who objected to the provisional appointment hire of the spouse of the Personnel Director was one of only two employees in HSA to have their positions eliminated in the subsequent budget year, out of a department of over 400 employees. Another employee who works in the CAO's office testified that after submitting a report confidentially to the Whistle-blower program, her co-workers were interrogated by a supervisor to identify the author of the report. This is a systemic problem, and it MUST be addressed.

IX-61

2. *The memo does not respond to county employee testimony about the widespread use of provisional appointments as a mechanism for circumventing merit-based hiring and promotions (illustrated most dramatically by the provisional appointment and rapid promotion of an immediate family member of the former Personnel Director). Instead, it simply states that these decisions are the responsibility of the department heads, not the Personnel Department (Please note that per county civil service rules, Section 130 Article VI.G, the Personnel Director authorizes all provisional appointments). Rather than responding to multiple, specific allegations of favoritism and procedural irregularities, the memo simply states that its authors "stand behind" these decisions. This response reinforces our conclusion that you must seek outside assistance for an independent audit or investigation of both systemic problems and specific cases that have been brought to your attention.*

3. *The memo advises you that the Personnel Department was audited by Cooperative Personnel Services (CPS) in 2007, and that "the county's processes were found in full compliance with the State Merit guidelines." This is not consistent with the facts. According to Gary Burket, senior staff member of the state's Cooperative Personnel Services audit team, the audit in question was of the decentralized HRA/CPS personnel unit only, NOT Central Personnel and the county's processes more generally. This narrowly focused audit of the decentralized HRA personnel department is required every 5 years as a condition of funding Social Services and Child Support Services. When told about county workers' allegations of widespread use of provisional hiring to circumvent merit-based hiring, state staff members confirmed that this sort of problem would be exactly what they would be looking for, but their audit was limited to HRA/CPS only. We suggest you consult directly with Mr. Burket, who has been on the CPS team auditing Santa Cruz County's HRA department since 1985. He can be reached at 916-263-3614x3018, or gary@cps.ca.gov.*

The personnel practices that we have drawn to your attention over the past year have created an atmosphere of demoralization, cynicism and fear among our members about the chances of fair treatment for those who are not someone's "special friend." This is a negative condition of employment that impacts the functionality of county government and reflects poorly on the use of taxpayer dollars. In response to this memo, we want to reiterate our support of a greater role for the Commission regarding oversight of the administration of the civil service system under the Personnel Director,

additional resources for the commission with its own staff independent of the department it is charged with overseeing, overhaul of the Whistleblower program to provide a safe, effective channel for employees to report wrongdoing within the county system, and direct oversight of provisional hires by the Commission to protect merit-based hiring and promotions.

We desire to continue working in a collaborative effort with the Commission and support the Commission in seeking out the increased resources it may need to attend to the important issue of investigating these allegations and making needed improvements in county government where indicated.

Sincerely,



Nick Steinmeier
Board Officers and Members

cc: County of Santa Cruz Board of Supervisors

NS.pb@CTW-CLC/SCrzCSCresponseletter-021408

Civil Service Commission Minutes
Thursday, January 17, 2008

The Civil Service Commission held a quarterly meeting on Thursday, January 17, 2008 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California.

ORDER OF BUSINESS

1. Call to Order: Chair Barsi called the meeting to order at 5: 50 p.m.
2. Attendance: Commissioners present: Chair Barsi, Vice Chair Judy Jones, Patricia Fink, Robert Taren and Jack Gordon. Present: Thornton Kontz, Commission Attorney, Laurie Hill, Staff to the Commission, Ajita Patel, Acting Personnel Director, and Personnel Analysts Terri Cobbs, Christa Schleiner, Kim Begley, and Nisha Patel.
3. Approval of Minutes: The minutes of the October 18, 2007 meeting were approved 5-0.
4. Oral Communications: Nancy Elliot, SEIU Local 521, reported the opening of the recruitment for Personnel Director and observed that the County Code calls for the Civil Service Commission to participate in the selection process.
5. Secretary Report: Secretary Hill reported that the recruitment for Personnel Director opened on January 14, 2007, after the deadline for Commission agenda materials. The County Administrator's Office is managing the recruitment and the application deadline is February 22. Chair Barsi wanted the Commission to be a part of the process. Commissioner Jones offered that she was the Commission's representative during the selection of the last Personnel Director. Acting Director, Ajita Patel, said that the County Code and the Civil Service Rules outline the process for recruitment and examinations. The County Administrator well aware of the Commission's required input and would welcome it as in years past. Commissioner Taren moved, and Commissioner Fink seconded that the Secretary prepare a letter to the County Administrator formalizing their request to participate in the selection process. The Commission selected Commissioner Jones as their representative and Commissioner Gordon as her alternate.

The Human Resources Agency has changed its name to Human Services Department. Leadership Academy started this month. The Commission continued a hearing originally scheduled for February 20 to March 19. Chair Barsi requested a waiver from the parties for the delayed hearing date.

6. Old Business:
 - a. Status of the ad hoc committee on Civil Service oversight, job specifications, job reclassification and the Whistleblower Hotline. Commissioner Taren said he received information from the Auditor's office regarding the Whistleblower program. He expressed concern regarding the process that referred a complaint back to a department from which the complaint generated and that such process could have a chilling effect on

the complainant. He said an independent agency or department should investigate such complaints.

Jim Heaney said he was also concerned about the lack of protection for complainants. He referenced the letter from Personnel addressing SEIU's concerns and distributed at the January Commission meeting, that it appeared to be the Personnel Department reporting on themselves. He also referred to the audit conducted by Cooperative Personnel Services (CPS) and said it was his understanding that this audit focused on the Human Resources Agency and Child Support. He maintained that even perceptions of conflicts of interest are a concern and that an independent body should investigate such matters.

Victoria Rodriguez said that the memo did not address their concerns and still hopes to talk to Commission in a confidential manner.

Nancy Elliott said that she had just received the letter and audit referenced above and intended to follow at a later date with a detailed response. She also talked to Gary Burkett, from CPS, who said that he reviewed Human Resources and Child Support. She is concerned about provisional appointments in hiring and promotional opportunities and wants to work with Ad Hoc committee to address these concerns. SEIU also filed information with the Grand Jury.

Commissioner Taren said that he met with Barsi, reviewed Whistleblower information from the Auditor's office, and had concerns regarding confidentiality and Brown Act. He said that they agreed that they should improve the Commission's website and consider having someone else investigate concerns within a department. Nancy Elliott added that the delegation of provisional hiring decisions should be reviewed, citing her concerns regarding the provisional hiring of a managers' roommate and the provisional hiring of the former Personnel Director's husband.

Chair Barsi said he was interested in the procedural concerns of the Whistleblower program, recruitment testing and provisional hires. Commissioner Jones reinforced that the Whistleblower program was a good focus.

Commissioner Gordon asked Thornton Kontz, Commission Counsel, how they can maintain confidentiality in these Personnel matters. Mr. Kontz said that confidentiality was part of the problem with the ad hoc committee as they do have Brown Act requirements. He said the employees do need somewhere, similar to the Whistleblower program, to bring their concerns but that the Commission was not the best body for these complaints under its current charter. Gordon suggested that it was similar to a police auditor – an independent body that reports directly to the Board. Barsi considered drafting a letter to the Board regarding the concerns. Barsi closed by saying that he felt the Ad Hoc committee could look at the provisional employee rules with the help of the Union.

b. Secretary Hill reported the Board's approval of the Commission's request for a twelve month probationary period for the Sheriff's Department Latent Print Trainee and Latent Print Examiner.

c. The discussion of amendments to the Civil Service rules regarding hearings will be postponed until sometime after the appointment of a new Personnel Director.

d. Secretary Hill said the new Commission website is up and the meeting agendas and minutes will be posted. In response to questions, she said that the email requests go directly to the Secretary, and the Commissioners clarified that was how they wanted it to work.

7. New Business

a. Elections: Commissioner Jones nominated Commissioner Fink as Chair, seconded by Commissioner Gordon. Fink was elected as Chair 4-0-1 and she presided over the remainder of the meeting. Commissioner Jones nominated Commissioner Gordon for Vice Chair, seconded by Commissioner Barsi. Gordon was elected Vice Chair 4-0-1.

b. Consider draft commendation for departing Personnel Director. There was some discussion regarding timing and precedent for such recognition. Commissioner Jones moved to draft a commendation. The motion failed for lack of a second.

8. Reports

a. Annual Report 2007: Commissioner Taren moved, and Commissioner Jones seconded to approve the draft annual report with an added goal to continue the work of the Ad Hoc Committee to address concerns raised by Service Employees International Union. Approved: 5-0.

b. Commission received the Discipline report.

c. Commission adopted the Delegated Classification report. 5-0

d. Commission received the Employment Services Division Report.

e. Commission received the 2008 Meeting Schedule

9. Received Correspondence

a. Board of Supervisor approval of the 12- month probationary period for the Latent Print Examiner and the Latent Print Examiner Trainee.

b. Reappointment of Michael Barsi to the Commission.

10. Adjournment: There being no other business or public comment, the quarterly meeting was adjourned at 7:15 p.m.

Respectfully submitted,



Laurie Hill, Staff to the Commission

Civil Service Commission Minutes
Thursday, October 18, 2007

The Civil Service Commission held a quarterly meeting on Thursday, October 18, 2007 in the Board of Supervisors' Chambers, 701 Ocean Street, Santa Cruz, California.

ORDER OF BUSINESS

1. Call to Order: Vice Chair Judy Jones called the meeting to order at 5: 50p.m.
2. Attendance: Commissioners present: Vice Chair Judy Jones, Patricia Fink and Jack Gordon. Absent: Commission Chair Michael Barsi and Commissioner Robert Taren. Present: Thornton Kontz, Commission Attorney, Laurie Hill, Secretary to the Commission, Ajita Patel, Deputy Director of Personnel, and Personnel Analysts Terri Cobbs, Christa Schleiner, Kim Begley, and Nisha Patel.
3. Approval of Minutes: The minutes of the July 19, 2007 meeting were approved 3-0-2.
4. Oral Communications: There were no oral communications.
5. Secretary Report: Secretary Hill, reported with regrets, that Dania Torres Wong, Personnel Director, had resigned and accepted a position with a public labor law firm. Commission was provided with a strike and delete version of the new SEIU MOU, approved by the Board on October 2. Vice Chair Jones commended both the County and SEIU for the three year agreement. Negotiations continue with the Mid Management group and will start with the DA Attorneys in November.
6. Old Business:

Report of ad hoc committee on Civil Service oversight, job specifications, job reclassification and the Whistleblower Hotline. Both committee members, Commissioners Barsi and Taren, were not present at the meeting. Commission attorney, Thornton Kontz, reported that the ad hoc committee did not meet and that concerns had surfaced regarding the Brown Act. It was unclear at this time whether the committee would be able to meet. Kontz said that he wanted to assure SEIU that the memorandum he received would be kept privileged. Kontz also noted that the County had produced a memorandum responding to the public comment that had been received. At the request of Vice Chair Jones, Secretary Hill distributed the following materials that were developed, including the referenced memo, after the distribution of the Commission agenda:

- 1) Memo, dated October 16, 2007, from Ajita Patel, Deputy Director of Personnel and Rama Khalsa, Health Services Agency Administrator, addressing the concerns regarding personnel processes that were presented at the Commission meeting on July 19, 2007,
- 2) Personnel Management Program Review: Report of Findings, dated April 2007, that was conducted by Cooperative Personnel Services Merit System Services, and
- 3) Adopted proposal dated September 7, 2007 between the County of Santa Cruz and SEIU regarding Article 21.1 Classification Action.

Ajita Patel offered that the Personnel Department remained available to respond to any inquiries of the ad hoc committee and added that the memo was an interim response to the oral testimony of July 19, 2007. Vice Chair Jones observed that the memo addressed all of the issues and noted that the work of the Ad Hoc Committee would likely continue. Copies of the above listed materials were made available to all attendees.

Staff Report on Civil Service Rules governing appeal hearings and subpoenas: Staff requested a deferral of this item and noted that no appeal hearings were scheduled. Hill reported that we have a working draft that requires a lot more discussion and requested the opportunity for the new Personnel Director to review prior to our submittal. Jones accepted the deferral and the Commission left it to the Personnel Department as to when the item returns before the Commission.

Update on website development for Civil Service Agendas and Minutes: Information Services Department has developed a prototype for the website. The site will be located within the County Commissions' webpage and would include the staff contact information, an introductory statement as to purpose of the Commission, meeting agendas and minutes, and will include an archive of previous agendas and minutes, as well as link to the Civil Service Rules and the County Code chapter regarding the Commission. The site should be available for the January meeting. Vice Chair Jones asked if the site would be interactive, and Hill responded that the reader would be available to send messages to the staff member assigned to the Commission.

7. New Business:

Request for 12 month probation period for new classification of Latent Print Examiner and Latent Print Examiner Trainee: Moved by Commissioner Fink, seconded by Commissioner Gordon, approved 3-0-2.

8. Reports

a. Delegated Classification Actions: Two lists included, one representing classifications surfaced in the annual budget process and one list of classifications not related to the budget. Commission was provided with a list of all job classification titles and the date that they were last updated. This list also highlighted classifications currently under review. Ms. Patel clarified the classification process following the adoption of the budget. Ms. Cobbs described the extension of the limited term positions due to grant related funding. Commissioner Gordon noted a concern that there are long term employees in limited term positions. Ms. Patel indicated that the rotation of these assignments is not related to seniority and that senior staff's seniority is recognized if funding cuts occur. Commissioners noted the transfer of custodians from Health Services to General Services and the elimination of vacant Public Works Maintenance Workers. Commissioner Gordon moved to adopt the report, seconded by Commissioner Fink. Approved 3-0-2. Commissioner Jones commented on the job specification revision dates, observing that several of the specifications were under review and Commissioner Fink stated that several job specifications were outdated. Ms. Patel added that the list was distributed to SEIU with the agenda packet.



COUNTY OF SANTA CRUZ

Personnel Department

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MEMORANDUM CONFIDENTIAL COMMUNICATION

TO: Civil Service Commission

FROM: Ajita Patel, Assistant Personnel Director *AP*
Rama Khalsa, Health Services Agency Administrator *RK FRK*

DATE: October 16, 2007

RE: Concerns Regarding Personnel Processes

On July 19, 2007 your Commission heard testimony from several members of the SEIU Local 521 County Chapter on issues of concern regarding personnel processes and practices. At that meeting, an Ad Hoc Committee was created to investigate the concerns raised. It is our understanding that the Ad Hoc Committee will contact the Personnel Department as necessary to review these allegations. Meanwhile, Personnel Department staff has developed a brief report back to your Commission in an issue and response format as outlined below. Please note the information below is based on the oral testimony of July 19, 2007.

1. Issue: SEIU requested a Reclassification of Information Technology positions without a loss of seniority.

Response: This issue has been resolved through bargaining.

2. Issue: Concerns were expressed regarding the confidentiality of complaints made to the Whistle Blower Hotline.

Response: This program is operated by the Auditor Controller not the Personnel Department. Our office has advised the Auditor of the concerns that were expressed at the meeting. At the request of the Ad Hoc Committee, the Secretary with the help of the Auditor Controller's Office provided background and operation information regarding the Whistle Blower Hotline.

3. Issue: Concerns were expressed regarding the 7th step appointment and subsequent promotion of one individual whose spouse works in the Personnel Department.

Response: The hiring decisions in this case were made by the HSA Administrator

who stands behind the appointments. The appointments were reviewed and approved by the Assistant Personnel Director at the time and was found to meet all requirements of the personnel process and the Civil Service Rules.

4. Issue: Concerns were expressed regarding the hiring and promotion of the spouse of the Personnel Director by HSA, the subsequent layoff of another applicant for the same position and the change of a job classification that he later occupied.

Response: The hiring decisions in this case were made by the HSA Administrator who stands behind the appointments. The appointments were reviewed and approved by the Assistant Personnel Director at the time and were found to meet all requirements of the personnel process and the Civil Service Rules. A copy of the County Nepotism Policy is attached and the policy was not violated by either the Personnel or Health Director.

The layoffs within the Health Department were the decision of the HSA Administrator, not the Personnel Department and reflect the budget priorities of the department and the County.

The job classification change referred to was the result of a broadening of the job classification within the agency to address agency needs including the implementation of a new automation system through a JPA which provides an automated health record for patients of the County clinic.

5. Issue: Concern was expressed regarding oversight of the Personnel Department and the Director.

Response: The Personnel Department was audited by Cooperative Personnel Services in 2007. The county's processes were found in full compliance with the State Merit guidelines. One recommendation was made regarding revising the EEO appeals process for the merit system covered employees (Human Resources Agency and Child Support Department). These revisions are being made.

With regard to the issues raised in your July meeting, most of the concerns expressed relate to the actions of the Health Director not the Personnel Director. Both Directors report to the CAO. None of the issues raised were brought to the CAO prior to your meeting.

6. Issue: Concerns were expressed regarding provisional hires and their success in the civil service exam process. Also, concerns regarding the background of candidates were discussed.

Response: The Civil Service Rules permit provisional hires. The hiring decisions among qualified candidates is the responsibility of the department heads not the Personnel Department.

7. Issue: Concerns about relationships of employees within the District Attorney's Office were expressed.

Response: The County does have rules relating to nepotism. We are not aware of

any violations of these requirements.

8. Issue: Interest in increasing the role of the Commission was expressed.

Response: We welcome the Commission's involvement.

9. Issue: Concerns were expressed regarding the selection of a manager for emergency preparedness within the Health Department.

Response: The HSA Director stands behind this appointment.

10. Issue: Concerns were expressed regarding checks and balances, a Civil Service Commission website, and the creation of a committee to address the concerns expressed.

Response: The Committee has been created and we welcome the opportunity to respond to the issues raised. A Civil Service Commission website is under development.

11. Issue: Concern was raised regarding the role of staff support to the Commission.

Response: The roles of staff are determined by the Civil Service Rules, by the Commission and by the County Code.

12. Issue: Concerns were expressed regarding outdated job specifications, the reclassification system and a need for an appeal process to the Civil Service Commission for reclassification requests that are denied.

Response: At the request of the Ad Hoc Committee, the Secretary forwarded the current job classification data which reflects the dates that classifications were last updated and lists the classifications that are currently pending review. As you will notice, there are eighty (80) classification studies underway which represents 15% of the total number. The Personnel Department Classification Unit has responsibility for five hundred and fifteen (515) specifications.

The County's system of classifying jobs is based upon the merit principles set forth in the County Code and governed by the policies and procedures specified in the Personnel Regulations, including the Civil Service Rules (Personnel Regulations Section 130), the County's Personnel Administrative Manual, and any applicable sections of the Memoranda of Understanding with various bargaining units. Reclassification requests can be requested by the departments or pursuant to the SEIU Memorandum of Understanding (MOU).

Under the SEIU MOU, a maximum number of 30 employee requests for a classification study may be filed (prior to the 2005 negotiations, the MOU allowed for a maximum of 25 employee requests to be submitted each year from January through March). This year, the Personnel Department received twenty (20) employee requests. The study of each position typically involves a desk audit, an interview with the supervisor, close study of the PDF submitted by the employee, and comparison of the job duties with several job specifications in order to seek out possible alternatives and rule out those

that are not good matches. Many studies involve interviews with supervisors of similar positions or extensive surveys of entire classes in order to ascertain similarities to and differences from the study position. Some studies also involve research into similar positions in our eight comparison counties or other relevant organizations. The decision of the Personnel Department is final as to the outcome of the classification study.

During the 2007 negotiations, SEIU proposed changes to the above mentioned process by including an appeal to the Civil Service Commission for those reclassification requests that were denied. Subsequent to the July 19, 2007, Civil Service Commission meeting, the County and Union engaged in lengthy discussions over the appeal process. The Union ultimately dropped their proposal for an appeal avenue to the Civil Service Commission. Attached is the language that was bargained for and approved by the Board of Supervisors for incorporation into the SEIU MOU on October 2, 2007.

Additional Information:

At the meeting in July, Commissioners indicated that information could be provided to your attorney and discussed in a closed session. Subsequent to your meeting, we found out that the Brown Act sets forth limited specific guidelines for conducting closed sessions. These generally cover matters such as litigation, real estate transactions, labor negotiations, public security, licenses for those with criminal histories and the hiring, firing or other employment matters involving staff of the group covered. The concerns expressed by the Union do not fall within the exceptions allowing closed meetings and a review of the operational procedures of the County are not an appropriate subject for a closed session. These matters are properly within the public meeting rules.

We would also request that the County be provided with the opportunity to address any specific concerns as many of the issues raised are the subject of collective bargaining.

SECTION XV - NEPOTISM

No person who is related within the first or second degree to a department head may be appointed in a paid capacity within that department. No person who is related within the first or second degree to a manager or supervisor may be appointed or assigned to a position which is in a direct reporting relationship or within the supervisory line of authority to such manager or supervisor.

Relatives within the first or second degree are spouses, parents, children, grandchildren, brothers and sisters.

In order to avoid the appearance of favoritism or impropriety, department heads are discouraged from appointing relatives within the first or second degree to volunteer assignments within that department.



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*** Call for appointment**

April 19, 2007

Hon. Chairperson and Commissioners
Santa Cruz County Civil Service Commission
701 Ocean Street
Santa Cruz, CA 95060

Re: Working Group on Civil Service Reform

Our letter to the Commission of April 4, 2007 reviewed some results from a survey of county employees regarding problems of personnel administration within the Santa Cruz County civil service system. We have additional important information we will be presenting at the next quarterly meeting of the Commission. Below are our proposals for civil service reform and personnel department performance improvement, which begin to address the issues we have raised today. Also today, we are asking you to act to address the climate of fear of retaliation in the county workplace that has caused 90% of the respondents to request that their names be withheld.

Solution to lack of oversight and fear in county employment

The Commission should adopt independent oversight, transparency and strong whistleblower standards as follows:

1. Oversight: Civil Service Commission to employ & direct staff independent of the Personnel Department or use another county department such as the Clerk of the Board as their staff.
2. Transparency: Commission develop a presence on the county intranet and internet, with direct contact information to commissioners.
3. Strong Whistleblower program: independent and confidential investigative authority under independent Civil Service Commission.

Solution to outdated job descriptions

1. Civil Service Commission to require that 20% of job specifications be reviewed/revised annually, focusing initially on jobs for which the county will be opening recruitment as well as those identified by the union and managers as needing review.

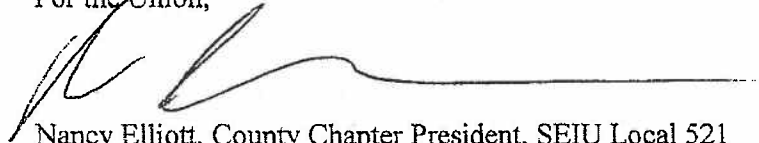
Solution to the reclassification system

1. The reclassification process should be transparent, with written statements of reasons for decisions and recommendations, reasonable time frames for completion or response, position analysis available to the Civil Service Commission, the union and the employee, etc.
2. The Civil Service Commission should provide oversight over the reclassification request process including commission oversight, reasonable time frames to conduct studies as well as appeals of classification decisions.

We recognize that these are significant changes, requiring careful drafting and discussion of civil service policy or rule changes. A good place to begin, however, would be to establish a working group on civil service reform, perhaps involving two commissioners, two representatives of the County, and two representatives of SEIU 521 to study the problems and report back to the commission at its next meeting.

Please contact us should you have questions or concerns.

For the Union,

A handwritten signature in black ink, appearing to be 'Nancy Elliott', written over a horizontal line.

Nancy Elliott, County Chapter President, SEIU Local 521
Nick Steinmeier, Area Director, SEIU Local 521

Cc: Board of Supervisors



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*** Call for appointment**

April 4, 2007

Hon. Chairperson and Commissioners
Santa Cruz County Civil Service Commission
701 Ocean St.
Santa Cruz, Calif.

Re: SEIU 521 Survey of County Personnel Practices

Hon. Commissioners,

In response to widespread member concerns and in the interest of good government, SEIU Local 521 is surveying our members asking for employee evaluation of county personnel practices. This letter provides a general description of the picture of the county personnel system that is emerging from this effort, and also summarizes some preliminary findings which will be presented at your April 17 meeting. The attachment to this letter presents data and cases that support these conclusions.

By law, county employment is based on a merit system intended to guard against favoritism and other management abuse of power by providing objective standards for examinations and hiring based on merit. At the core of this system is the Civil Service Commission, an independent body responsible for ensuring the integrity of the civil service system. Without effective oversight, civil service rules are easy to "game", and personnel management is accountable only to itself. However, the Santa Cruz County Civil Service Commission does not provide actual oversight. Instead it meets only quarterly, delegates discretionary authority to the Personnel Director, and depends for staff support on the very department which it is responsible for overseeing. As a result there is no quality assurance for the performance of the personnel department. Hiring, transfer and promotional decisions affecting 4,000 public employees are made with no independent oversight, public accountability or other checks and balances.

Among the findings we will present at your April 17 meeting are (1) job specifications are woefully out of date, and (2) the reclassification process is broken. The union has repeatedly attempted to resolve these problems, but the Personnel Department is unable or unwilling to address them. Also, (3) there is widespread fear of reprisal in the workplace that

X b

discourages employees to report problems or make suggestions for improvement in personnel practices, and that leads them to request anonymity and other protection when discussing these matters.

For obvious reasons, the third concern above is a major barrier to gathering and disclosing information about these and related issues. In particular, we have received serious allegations about specific problems in hiring, promoting, transfers, favoritism and nepotism not covered in this report, but in the absence of strong whistle-blower protections are not prepared to bring them forward at this time. We will attempt to do this by the next quarterly meeting of the Commission. However, because we believe that strong whistle-blower protection should be a Commission responsibility, we would also like to discuss this problem and possible solutions with you at your April 17 meeting.

For the Union,

A handwritten signature in black ink, appearing to be 'Nancy Elliot', with a long horizontal line extending to the right.

Nancy Elliot
Nick Steinmeier

April 2, 2007

SEIU 521 Survey of County Personnel Practices (Attachment)

1. Job specifications of Santa Cruz County jobs are woefully out of date.

Any system of merit-based candidate recruitment, hiring and promotion depends upon accurate descriptions of the jobs to be performed. According to information available on the County Personnel Department's website, of approximately 270 job specifications in SEIU's bargaining unit:

- 18 are greater than 25 years old.
- 92 are greater than 15 years old.
- 76 are greater than 10 years old.
- 62 are greater than 5 years old.
- Only 23 (8%) of the job specs have been updated in the past 5 years.

How does this affect county employment?

Example A: 128 county workers are classified in the "TYPIST CLERK" job series. These employees have not used typewriters for years. They work on computers. Yet the job spec, last updated in 1988, lists one of the three points of knowledge required for the position as "Thorough knowledge of standard typewriter set-ups and formats for business correspondence and reports." No reference is made to computer skills on the job specifications in regards to work to be performed or qualifications for hiring. Typist Clerk III Nell Sulborski writes: "I would say that 90 per cent of my job is computers and word processing. If a T/C III isn't required to do Word, Excel, other programs, than they are pretty much useless to any department in the County."

Example B: Another example of an outdated job spec is the classification of California Children's Services Specialist I/II. Again, the omission is in relation to computer skills. This job spec was last updated in 1994. However because of changes in the State of California's computer system, these workers now spend a good deal of time on the job dealing with medical issues in an electronic medical records system, doing data entry, and entering medical codes into the computer system .

2. The job reclassifications process in Santa Cruz County is broken.

One of the 5 merit principles listed in the county code (#2.46.070) to guide the civil service system is "providing equitable compensation through a system of position reclassification." Employees who have been performing work not described by their own job description but more typical of a different job in the county system may request a review of their duties and evaluation for a reclassification. However, there is a pervasive perception among county workers that the reclassification system is broken.

During the last 5 years of the 1850 workers that SEIU represents, fewer than 10 have been approved for a reclassification and upgrade of their position. That is a reclassification rate of 0.1% per year. Under the County Personnel Departments current standards, a maximum of 30 employees(1.6%) in the SEIU bargaining unit of approximately 1850 employees can request consideration for a reclassification annually. However, since the vast majority of applicants have been denied, and the work involved requires hours and hours of paperwork, very few workers are opting to even try any more. Even when workers do go through all the work for a reclass request, there is so little transparency to the system that denials no longer even include the basis for the denial. Even management-initiated classification requests are a slow process. Many managers have figured a way around the reclass process, and wait until a position is vacated and then engage in a shell game of "add and deletes" administrative process to create accurately classified positions in their units.

Example from SEIU survey: My name is Robin Connors. I work in the HSA Laboratory. I have been working outside my classification as Lab Assistant Phlebotomist for over two years. When the Lab purchased a new Lab Information System, Harvest, I learned to utilize, manage and build the database for testing data, and my supervisor added administrative function to my access. When the County converted to EMR (electronic medical record) with Epic and Ochin, I set up the database for Lab interface with Harvest. I requested a position reclassification for my new duties outside the realm of blood drawing and "routine clerical" work and my request was denied by personnel after eight months review time. I have submitted my resignation to the County after working diligently with "excellent" and "outstanding" work evaluations. I've been nominated three times as employee of the year in my ten years of employment here, but my efforts and extra work go unrecognized and uncompensated. I have no option but to take my talents elsewhere. *(Please note: This employee is leaving county employment this month for another job.)*

3. There is a widespread perception of fear and intimidation in the workplace that discourages employees as citizens to report problems and make suggestions for improvement.

Of more than 60 respondents who sent written testimonials to the union, 90% requested anonymity out of fear of retribution. For example, here a county employee reports on an interrogation of coworkers in her department because a report had been filed with the county's "whistle blower program" which is specifically intended to provide confidentiality and support to encourage employees to report on illegal/unethical/wasteful government activity:

"Recently I called the Whistle Blower Hotline and had them fill out a report for a violation of County Policy California State Labor Laws. The report was, I assume, investigated and found to have merit and a copy was given to the department. During this time, a

County employee, whom I knew, was retiring. Before leaving she was given an exit interview. During this interview the person conducting the interview showed her a copy of the Whistle Blower Hotline form that had been filed and asked if she was the one who made the call. When she said she had not the interviewer mentioned it wouldn't be hard to figure out who did. I thought this was just very inappropriate and very unprofessional. If I had wanted them to know that I was the person who called I would have given my name. I have the right to confidentiality and I exercised that right when talking to the hotline."