

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