

Civil Service Commission

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MEMBERS OF THE COMMISSION
Robert Bergman, President
Arthur Chapman, Vice President
Jeannie Nix
Jay Salter
Bill Tappan

The San Luis Obispo County **Civil Service Commission**
Regular Session Meeting Action¹ Minutes
Wednesday, March 22, 2006, 9:00 a.m.

County Government Center, 1055 Monterey Street, Suite D271, San Luis Obispo, CA

MINUTES

Present: Commissioner Arthur Chapman, Commissioner Jeannie Nix, Commissioner Jay Salter, Commissioner Bill Tappan and President Robert Bergman

Staff present: Commission Secretary Richard Greek and Clerk Susan Carvalho

Counsel: Commission Attorney Deputy County Counsel Ann Duggan

1. Call To Order:

President Bergman called the meeting to order at 9:02 a.m. and led the flag salute.

2. Public Comment Period:

President Bergman addressed the audience asking for anyone wishing to speak to the Commission during the Public Comment Period.

Gere Sibbach, County Auditor Controller, advised the Commission of a situation involving a County employee in his department believed to be working out of class due to increased job responsibility involving the new computer system. Mr. Sibbach and the employee requested a reclassification study and submitted the request during the required 'window period' as established by the Personnel Department. The study was denied several months later. The employee has submitted an appeal of the study's results and has not been provided the opportunity to go before the Civil Service Commission.

Mr. Sibbach expressed concern over the delay in time to address this employee's increased work duties, questioned the efficiency of the 'reclassification study window period' policy and procedure of the Personnel Department, the delay in receiving the results of the reclassification study review and the continued wait to bring the appeal matter before the Civil Service Commission.

Mr. Sibbach asked that the Commission review the reclassification study window period policy and the delay in responding to appeals in a timely manner.

President Bergman asked Richard Greek to address both issues at the next regular session meeting scheduled on Thursday, April 27, 2006.

Being no further public comment, President Bergman closed the Public Comment Period.

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3. **Approval of Minutes:**

Motion made by Commissioner Nix to approve Wednesday, February 22, 2006 minutes, second by Commissioner Tappan. Motion passed. 5-0-0.

4. **Future Agendas**

Richard Greek distributed the monthly Civil Service Commission meeting calendars and reminded the Commission that on April 27, 2006 there will be an update on the strategic plan by Patrick Ibarra.

Mr. Greek reported the Personnel Department is working with (6) grievances and (9) appeals to resolve them at the lowest possible level. A good faith effort continues to resolve a 9-month old grievance and appeal involving four Health Agency employees. A couple of appeals have been submitted by Public Works employees regarding reclassification issues. Over half of the grievances and appeals are within the one-two month process period. However, tentative hearing dates for requested.

The following dates were established as tentative hearing dates by the Commission:

- a. June 6
- b. June 8
- c. June 29
- d. July 11
- e. July 13

Direction was given to Mr. Greek to also calendar grievance and appeal hearings following the regular business agenda of a regular session meeting whenever possible.

5. **New Specifications:**

Antonia Marshall, Principal Personnel Analyst, distributed the current and proposed organizational charts for the Health Agency reorganization. Ms. Marshall discussed the variances in the two charts and highlighted the proposed 'new' job class specifications for:

- a. **Deputy Director – Health Agency**
- b. **Division Manager – Drug and Alcohol Services**
- c. **Division Manager – Environmental Health Services**
- d. **Division Manager – Health Agency**
- e. **Division Manager – Mental Health Services**
- f. **Division Manager – Public Health Nursing Services**

Commissioner Nix and Commissioner Chapman questioned and discussed the use of the word administrator versus manager with Ms. Marshall. Personnel staff stated that various committees and commissions involved felt it was important to keep the "titles" of "public administrators" because that was more prestigious.

Jess Montoya, Health Agency Director, spoke in favor of the proposed 'new' job class specifications and provided some background and clarification on the concept of the reorganization and titles.

Commissioner Tappan asked for clarification by Mr. Montoya on which job specs were unclassified versus classified. Mr. Montoya provided background and clarification.

Ms. Marshall and Mr. Montoya presented each proposed job class spec individually.

Commissioner Chapman questioned the requirement, on all job specifications, of a valid driver's license at the time of application and its validity maintained throughout employment. Mr.

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Montoya and Ms. Marshall exchanged comments on the subject. It was determined the specifications would remain as proposed and submitted.

After discussion Commissioner Chapman requested a change to the education and experience requirements on the Deputy Director-Health Agency job spec to add specific coursework in accounting. Ms. Marshall will revise line 8 [on exhibit 5A(5)] to include a specific minimum college level coursework requirement in semester or quarter units. Mr. Montoya and Ms. Marshall were in agreement.

President Bergman questioned Mr. Montoya and Mr. Greek on the anticipated recruitment type for these positions. It was determined Mr. Montoya plans to rely on the Personnel staff's recommendation but the recruitment would probably be countywide.

Commissioner Tappan acknowledged the education and experience language in the proposed job specs. Mr. Greek stated our County's standard language includes, "job-related, professional-level experience may substitute for the required education on year-for year basis". Some Commissioners agreed to the importance of college or university requirements as well as job-related professional-level experience.

General discussion continued with Mr. Montoya regarding the requirement of staff to have a medical background versus a generalist background in these job specifications. It was agreed that in some cases a generalist background is sufficient.

Regarding the Division Manager – Mental Health Services job spec, Commissioner Salter questioned the lack of reference to a licensed psychiatric technician considered as an option under education, experience and licenses. After further discussion with Mr. Montoya, it was agreed this specification would be pulled (from request for approval) until further research and consideration of this option is done.

Motion made by Commissioner Chapman to approve items 5A, 5B, 5C, 5D and 5F as amended, second by Commissioner Salter. Motion passed. 5-0-0.

It was determined that Ms. Marshall will resubmit item 5E at the April 27, 2006 CSC meeting for reconsideration and provide the final language for the accounting experience requirement for 5A.

Following a brief break President Bergman requested that agenda item 11 be called to accommodate the schedule of legal counsel Larry Frierson. It was agreed.

6. **Closed Session – (Closed Session per Gov. Code, section 54956.9 – Conference with Legal Counsel, Pending Litigation):** San Luis Obispo County Superior Court, State of California, Case No. CV 050945, County of San Luis Obispo, Department of Social Services (Petitioner) vs. County of San Luis Obispo, Civil Service Commission (Respondent), Cesar Bedroni (Real Party in Interest) (*Action*)

President Bergman reported at 11:17 a.m. that no action was taken during closed session.

7. **Revised Specifications:** (*Action*)
Mark McKibben, Personnel Analyst, provided background and clarification on the proposed revised Program Coordinator I, II (Career Series) specification. Mr. McKibben referenced the Program Coordinator specification as created during the 2004 county-wide management study and was intended to apply to positions in the Health Agency and Department of Social Services. Additional review of the job spec was anticipated during this year's Health Agency reorganization; hence, the proposed revision to the Program Coordinator spec.

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Commissioner Nix prompted a discussion reviewing current existing job spec titles and vacancies or occupants within the job class. Commissioner Chapman recalled the action by the Commission in 2004 that the Program Coordinator job spec was approved with the condition that staff considers the re-titling of this specification to reflect the strong management and administrative responsibilities of the classification. This consideration was to occur during the projected Health Agency re-organization process.

President Bergman invited those in the audience wishing to give public comment to do so.

Susan Hughes, Director of Health Promotion Services for the Tobacco Control Program and the First Five Commission, reminded the Commission that two years have passed since the Commission directed the Personnel Department staff to revise her job class specification. Ms. Hughes stated that at that time the Commission directed (Personnel) staff to redefine 'coordinator' versus 'manager'. She stated, "*To my knowledge that has not occurred*", and added that the Health Agency Director did review the job specification during the re-organizational process and made a recommendation "*to classify the position as a Program Manager with a bump-up in the salary slightly because of the responsibility associated with the job*".

Ms. Hughes commented on her knowledge of Mr. Montoya's review of the Program Coordinator job classification with the Department of Social Services staff, their organizational chart and their program responsibilities. Ms. Hughes added that Mr. Montoya's recommendations to the Personnel Department staff were not accepted and the result is the same as in 2004. Susan Hughes referenced her possession of emails from Dr. Greg Thomas and Lee Collins verifying the inappropriateness of the title Program Coordinator applicable to either County department. Ms. Hughes added that all persons in the state that administer First Five programs are considered Executive Directors.

Ms. Hughes continued to provide personal comments toward her objection to the use of the title of Program Coordinator and the proposed job class specification as an accurate reflection of her job responsibilities.

David Edge reminded the Commission that what the County does is classify "positions" not "individuals" and therefore although a title may be important to an individual, it was his opinion that it should not be the deciding factor in determining a job spec title.

After discussion with the Commission, Mr. McKibben re-confirmed his comprehensive audit, class study and personal interviews with numerous individuals in both County departments. Mr. McKibben reviewed definitions and defined coordinator as the ability to "*organize, direct, manage, synchronize, harmonize, match-up, bring together.*" Based on this, Mr. McKibben has proposed the job class specification changes and retention of the title Program Coordinator for approval and adoption for use in the County's Health Agency and Social Services departments.

All Commissioners exchanged information and dialogue with Mr. Montoya, Ms. Marshall, Mr. McKibben, and Ms. Hughes. Commissioner Chapman again requested that it be appropriate for additional evaluation and consideration be given to changing the job specification title to Program Manager.

Marsha Bollinger, Health Agency Administrator, addressed the Commission and reviewed her 15-year career with the County. She stated she was hired as the AIDS Coordinator and progressed to Health Agency Administrator. She added her career included a span of managing (3) grants to (16) grants. Ms. Bollinger stated this change is a "*demotion in title*" as she was once a "coordinator", then an "administrator", and now back to a "coordinator".

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Ms. Bollinger discussed the inadequacies in the job specification that do not truly reflect her scope of job responsibilities, not limited to but including her ability to manage large program budgets.

Following additional discussion it was agreed that staff would further research and evaluate the job title [exhibit 6A (7), line 6] and the requirements of a valid driver's license [exhibit 6A (12), line 9 and 10] plus include specific language in the job spec to require budget preparation as a representative duty [exhibit 6A (8), line 10].

The matter will be placed on the April 27, 2006 CSC meeting agenda.

8. Time Reserved for Commission President

No report.

9. Time Reserved for Commission Counsel

No report.

10. Time Reserved for Commission Secretary

a. Review Section 2.40.060 of the County Code

Richard Greek presented the Commission with a report and summary of the positions in the County listed as unclassified under County Code 2.40.060. Mr. Greek found, during his networking with other similar sized counties, that it is very common for department head level positions to be in unclassified service. Mr. Greek added that a discussion about assistants or deputy directors in unclassified service has occurred with David Edge, County Administrative Officer.

David Edge spoke to the Commission about the unclassified service positions under County Code 2.40.060 and how some of the positions are included due to mandated federal and state laws. (I.e. health code, welfare and institutions code, education code.) Mr. Edge added that in 1999 the Board of Supervisors directed Mr. Edge to transition vacated department head positions, through attrition, into the unclassified service. Mr. Edge added that this process has been maintained and requires an ordinance change by the Board.

Mr. Edge and the Commissioners exchanged dialogue about the Board's 1999 directive and the caution in dismantling the civil service structure by piece meal. Mr. Edge assured the Commission that it was not the Board's direction to dismantle the civil service system and that the current level of unclassified positions represents only 1% of the total full-time employees' in the county.

Since the 1999 directive Mr. Edge has been involved in 11 positions transitioned into the unclassified service. Mr. Edge noted that the assistant county administrator officer position was a new job class and was never in the classified service.

Mr. Edge clarified that he agrees with the Board's decision to have department head level positions classified as at-will positions.

In response to the Commissioners' inquiry, Mr. Edge stated that it was not his intent or plan to propose to the Board of Supervisors that assistants or deputy directors also be placed in the unclassified service.

Mr. Edge stated, in response to Commissioner Nix's question that to his knowledge the job class specifications at the department head level were not revised when changed to the unclassified service. Minimal changes might have occurred to include that the position is at-will and serves at the will and pleasure of the CAO. However, Mr. Edge clarified that he would not hesitate to lower the minimum qualifications and requirements if it was in the best interest of the County.

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Ann Duggan, Deputy County Counsel and Commission Attorney, stated by virtue of 2.40.060(b) all positions created after the establishment of the civil service ordinance fall into the classified service unless they are specifically exempted. Ms. Duggan added, *"case law states that the Board has the authority to eliminate civil service positions and to take certain officers or positions out of the classified service for reasons of economy and efficiency so long as the result does not or what results is not a piece meal dissolution or doesn't substantially impair the system."*

By direction of the Commission, Mr. Greek is to provide the Commission the current and past job class specifications of each position listed in County Code 2.40.060 at the next CSC meeting.

b. Temporary Help Exemption Request – Health Agency

Richard Greek advised the Commission that he extended the 960 maximum hours of a temporary position in the Health Agency to facilitate the closing down of the laboratory.

c. Reorganization and Budget Update

Richard Greek informed the Commission that the Risk Management Division would be joining the Human Resources Department beginning fiscal year 2006-2007.

The Employee University staff will be moving to the Administrative Office in the next few months to concentrate on countywide strategic planning, organizational development and specifically, the High Performance Management program.

Mr. Greek stated that the County Counsel's role would be changing with the Commission and the Commission will be contracting with 'outside' counsel to serve as the Commission's attorney. President Bergman questioned the lack of involvement and input from the Commissioners on this matter. David Edge claimed the reason is based on a conflict of interest for a County Counsel's employee to advise the Commission and work with County departments.

Commission Attorney Ann Duggan clarified that case law allows the County Counsel to represent both the department and the Commission. However, Mr. Lindholm does not feel comfortable with this arrangement.

The Commission members agreed that they should have a role in selecting an outside counsel if required. Mr. Edge agreed. However, it is the desire of the Commission to keep County Counsel for all civil service matters, but if that's not possible, that Mr. Lindholm consider that County Counsel continue as the Commission's attorney for "normal day-to-day functioning" and an outside attorney be contracted with for all hearing matters. The Commissioners unanimously agreed that the historical legal background of County Counsel's assistance to the Commission is critical to the strength of the Commission and its authority to force and affect the civil service laws and rules.

David Edge shared in the Commission's concern and will take that into account when considering options.

President Bergman directed Ann Duggan to convey to Mr. Lindholm that it is the desire of the Commission to retain County Counsel staff in the day-to-day legislative matters and only hire an outside attorney for hearings.

(Note: President Bergman is now absent from the meeting. Vice President Art Chapman is presiding.)

d. EEO Information Request

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Richard Greek distributed information gathered from Santos Arrona, Principal Personnel Analyst, relating to the Commission's request for additional EEO information. Mr. Greek stated that due to unforeseen circumstances Mr. Arrona was unable to attend today's meeting.

Mr. Greek suggested that after review of the information if the Commissioners have additional questions Mr. Arrona will be asked to attend the next CSC meeting in April.

No additional issues were presented by Mr. Greek.

11. Closed Session - (Closed Session per Gov. Code, section 54957.6 -- Conference with Commission's Labor Negotiator): 2005 Civil Service Rule Changes (*Action*)

Vice President Chapman called the meeting into closed session for agenda item 10 and 12. Commission Counsel Ann Duggan stated that she has excused herself from agenda item 10 as she is a member of the Deputy County Counsels' Association bargaining unit. Mr. Wyatt Cash, Chief Deputy County Counsel, will be participating as the Commission's attorney in closed session.

12. Deliberations/Findings & Decision – Open/Closed Session (Closed Session for Deliberations per Gov. Code, Section 54957): Grievance G05-49 dated October 7, 2005 and resubmitted January 9, 2006 (*Action*)

The meeting was called in open session by Vice President Chapman at 4:45 p.m.

A motion was made by Commissioner Tappan to deny the appeal of G05-49, second by Commissioner Nix. Motion passed. 4-0-1.

Roll call:

Commissioner Nix	Yes
Commissioner Salter	Yes
Commissioner Tappan	Yes
Vice President Chapman	Yes
President Bergman	Absent

13. Adjournment

Being no further business the meeting was adjourned at 4:52 p.m.

¹ *Note: These minutes reflect official action of the Civil Service Commission in open session. A taped record exists and will remain as the official, complete record of all proceedings by the Civil Service Commission.*

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