

Civil Service Commission

1055 MONTEREY STREET, SUITE D250 ♦ SAN LUIS OBISPO, CALIFORNIA 93408 ♦ (805)

MEMBERS OF THE COMMISSION

Robert Bergman, President
Jeannie Nix, Vice President
Arthur Chapman
Jay Salter
Bill Tappan



**The San Luis Obispo County Civil Service Commission
Regular Session Meeting Action Minutes
Wednesday, August 22, 2007, 9:00 a.m.
County Government Center, 1055 Monterey Street, Suite D271, San Luis Obispo, CA**

MINUTES

Present: President Robert Bergman, Vice President Jeannie Nix, Commissioner William Tappan, Commissioner Jay Salter, Commissioner Arthur Chapman

Staff present: Dori Duke, Heather Gunderlock

Counsel: Shannon Matuszewicz, Warren Jensen

1. Call To Order

President Bergman called the meeting to order at 9:02 a.m.

2. Public Comment Period

President Bergman addressed the audience asking for anyone wishing to speak to the Commission during the Public Comment Period. Being no public comment, he closed the Public Comment period.

3. Reports

a. Commission President

1. Discussion of preparation for the September 18, 2007 Board of Supervisors' meeting to consider the Commission's request for a rules negotiator

Ms. Hossli addressed the Commission regarding their request for a rules negotiator. She stated that she was unable to complete her staff report, but that she would provide a brief verbal report. She explained that she would forward the Commission's request for a professional negotiator to the Board for their consideration during the September 18, 2007 meeting. She did not plan to recommend a negotiator for the Commission, but rather that the Board secure a professional negotiator to work with the Commission, Human Resources Department and employee associations to update the Civil Service Rules. She indicated that she would like the Commission, Human Resources Department and employee associations to participate in the selection of the negotiator and to determine the negotiator's work plan. Ms. Hossli then expressed the hope that after the rules are revised, there would be fewer issues between the Commission and the Human Resources Department, since both are "charged with enforcing the rules fairly and impartially and creating a level playing field for all the employees as well as managers."

The Commission expressed disagreement with Ms. Hossli's perspective. While they understood the need for a rule update, they felt it was still necessary for them to have their own negotiator to complete the update process. Specifically, all parties would participate in the update process, but at some point, there would be rule proposals that the Commission may have a different

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perspective than management or the employee associations. At these points, the Commission would need their own negotiator. Mr. Tony Krause, SLOCEA, also provided testimony regarding this agenda item. He stated that he would like to ensure that draft proposals are not created by management and the Commission and subsequently provided to the employee groups for review; instead, he would like to see all parties represented equally. He also cautioned against the County hiring a negotiator who has pre-determined the results. Ms. Hossli responded that she appreciated Mr. Krause's concerns and that she wants the employee associations to be involved in the hiring process and well as determining the negotiator's work plan.

President Bergman asked Ms. Hossli if the Board presentation item could be delayed one month so that the Commission could discuss Ms. Hossli's report before it went to the Board; she responded that it could. Mr. Jensen suggested the Commission ask Ms. Hossli to provide her staff report at the Commission's September 26, 2007 regular meeting. The Commission did so and Ms. Hossli stated she would have the report for that meeting. She also offered to provide it electronically to Commissioners as soon as it is available.

b. Subcommittees

No report.

c. Commission Counsel

No Report.

d. Commission Secretary

1. Update on the status of Supervisory Water Systems Worker Specification

Ms. Hossli stated that the Human Resources Department, Public Works Department and SLOCEA are in agreement regarding the specification however, the final agreement was not reached until after the Commission's agenda deadline for the August regular meeting. She informed the Commission that it would be included on the September 26, 2007 regular meeting agenda.

2. SLOCEA memo regarding Rule 5.05(a)

Ms. Hossli informed the Commission that Mr. Tony Krause, SLOCEA, wished to address the Commission regarding career series advancement in connection with the Compton Findings and Decision. He stated that the Commission found that there was no evidence that department heads were informed that they should publish the criteria for career series promotion. He stated that in 1994, a Commission subcommittee addressed the 5.05 policy and that a decision was made that required department heads to publish the criteria. Mr. Krause stated that his letter included excerpts of Personnel Department policy that echoed the subcommittee's recommendation. Mr. Krause concluded by emphasizing the importance of department heads publishing the criteria so employees are aware.

Mr. Phil Compton, Behavioral Health, also provided public comment related to the agenda item. Mr. Compton commented on Mr. Krause's letter and opined that it is relevant to his Findings and Decision. He claimed that Mr. Krause's letter provides additional proof of the existence of the policy that career series criteria be published. Additionally, he opined that Carlos Silvas, Personnel Analyst, should have been aware of this policy and should have advised him of its existence. He stated that for these reasons, he requested the Commission reconsider his appeal and award him the remedy

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requested. President Bergman asked Mr. Jensen to comment. Mr. Jensen stated that the Commission did not find that the policy was not promulgated; it found that there was no *evidence* that the policy was promulgated. He also stated that this was "a peripheral point" in the Commission's determination and that the determination was based on the fact that Mr. Compton held the position of Psychiatric Technician and did not meet the licensure requirement for the position to which he wished to promote. Mr. Jensen advised the Commission that there is not a basis for the Commission to reconsider their decision and that even if the matter was reconsidered, the outcome would not be different.

4. Specifications

The following specifications were approved with revisions at the Commission's August 8, 2007 meeting. The requested revisions were made; final copies are provided to Commissioners for informational purposes.

1. Family Support Officer Career Series / Child Support
2. Health Education Specialist / Health / Farm Advisor

5. Closed Session per Government Code 54957 to discuss appointment of a temporary rules negotiator for the Commission

The item was deferred to the September 26, 2007 regular meeting.

6. Continued Hearing – Open Session: Consideration of an appeal from Sam Aiello (A07- 97, June 27, 2007) regarding the Assistant Social Services Director recruitment

The Commission reopened the hearing and directed Mr. Aiello to proceed with his case. Mr. Aiello indicated he possessed a declaration from a witness that he wanted to introduce into evidence. Mr. Jensen advised the Commission that the document could be introduced into evidence, though he advised Commissioners that it should be considered "hearsay," since it was not a sworn statement from the witness and because there was no opportunity to examine the witness. President Bergman asked Ms. Hossli if she objected to entering the letter into evidence. She indicated that she did not. The document was subsequently entered into evidence as Exhibit A 28.

Mr. Aiello rested his appeal.

The Commission adjourned into Closed Session to discuss the appeal. Upon reconvening, President Bergman announced that the Commission had tentatively concluded that the appellant had not met his burden of proof, but wanted the appellant and respondent to comment on this decision before it was finalized. Mr. Aiello provided the Commission with the reasons the appeal should be upheld. He also stated that he would be disappointed if the Commission denied his appeal, but that he would abide by the Commission's decision. Ms. Hossli expressed agreement with the Commission -- Mr. Aiello failed to bring forward evidence that the Assistant Social Services Director recruitment was "unfair" or that he was discriminated against for "non-merit factors."

The Commission adjourned into Closed Session for deliberation. Upon reconvening President Bergman reported that the Commission directed Counsel to draft Findings and Decision denying the appeal.

7. Adjournment

Being no further business, the meeting was adjourned at 11:10 a.m.

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.