CIVIL SERVICE COMMISSION MINUTES
February 7, 2007

A regular meeting of the Civil Service Commission was held at 2:30 p.m., 6th Floor Tower of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

Francesca Krauel
W. Dale Bailey
Cheryl Fisher
A.Y. Casillas
Barry I. Newman

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
William D. Smith, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission

March 7, 2007

COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
February 7, 2007

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: **6th Floor Tower**, 1600 Pacific Highway, San Diego, California

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Discussion Items	Continued	Referred	Withdrawn
5,6,14,15,16,17		7,8,9,10,11 12,13	18

COMMENTS: Motion by Bailey to approve all items not held for discussion; seconded by Casillas. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this location to hear the announcement of the closed session agenda.

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: one potential case.

OPEN SESSION AGENDA
County Administration Center, 6th Floor Tower

MINUTES

1. Approval of the Minutes of the regular meeting of January 17, 2007.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Krauel: **Karen Taylor**, former Assistant Manager, appealing a Final Order of Removal and Charges from the Treasurer-Tax Collector.

Confirmed.

3. Commissioner Casillas: Bradley Fields, Esq., on behalf of **2007-02**, appealing an Order from the Sheriff's Department.

Confirmed.

4. Commissioner Newman: Timothy Hancock, San Diego County Probation Officers' Association, and Service Employees International Union Local 2028 on behalf of **2007-03**, appealing an Order from the Probation Department.

Confirmed.

DISCRIMINATION

Requests

5. **Michael Porter**, Social Worker I, requesting the issuance of a temporary order by the Commission to maintain the status quo of his employment status that existed prior to the effective date of the Final Order to Demote and Charges from the Health and Human Services Agency. (Continued from the January 17, 2007 meeting. See also Item No. 17 below.)

RECOMMENDATION: Deny Request

Mr. Porter explained that he is requesting status quo of his pay rate, only. Velanda Joyner, representing the Agency, was present to answer any questions the Commission posed.

Motion by Casillas to approve staff recommendation to deny request; seconded by Newman. Carried.

Prior to Agenda Items 6, 7, 8, 9, 10, 14, 15, and 16 Commissioner Krauel stated that for the record she would not be participating in these matters. These employees have employment at the courthouse (or their work affects the courthouse) where her husband is also working. She left the dais for the reading, discussion and action taken on those items.

6. **Dawn Beebee-Doss**, Deputy Public Defender III, challenging the appointment of the Office of Internal Affairs to conduct an investigation of her previously-filed discrimination complaint. (See also Item No. 14 below.)

RECOMMENDATION: Deny Request

Ms. Beebee-Doss explained that Mr. Eloy Villa, Director of OIA, and Mr. Steven Carroll, the Public Defender, are friends and socialize with each other. She feels there is a conflict of interest or appearance of impropriety in

allowing Mr. Villa and his staff to investigate her Rule VI discrimination complaint.

Robert Stall, Chief Deputy Public Defender, stated that the department feels there is no merit in Ms. Beebee-Doss' allegation because staff from OIA is and always has been objective with the department. He further stated that any interaction between Mr. Carroll and Mr. Villa has been limited. The Department urged the Commission to continue its appointment of OIA in the Rule VI matter.

Motion by Casillas to approve staff recommendation to deny request; seconded by Newman. Carried.

AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**NONE**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

Complaints

7. Dennis J. Hayes, Esq., on behalf of **Linda Brown**, Deputy Public Defender IV, alleging retaliation and gender discrimination by the Office of the Public Defender.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff Recommendation approved. Commissioner Bailey assigned.

NOT PARTICIPATING: KRAUEL

8. Dennis J. Hayes, Esq., on behalf of **Susan Clemens**, Deputy Public Defender IV, alleging gender discrimination by the Office of the Public Defender.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff Recommendation approved. Commissioner Bailey assigned.

NOT PARTICIPATING: KRAUEL

9. Dennis J. Hayes, Esq., on behalf of **DawnElla Gilzean,** Deputy Public Defender IV, alleging gender discrimination by the Office of the Public Defender.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff Recommendation approved. Commissioner Bailey assigned.

NOT PARTICIPATING: KRAUEL

10. Dennis J. Hayes, Esq., on behalf of **Barbara McDonald,** Deputy Public Defender IV, alleging gender and age discrimination by the Office of the Public Defender.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff Recommendation approved. Commissioner Bailey assigned.

NOT PARTICIPATING: KRAUEL

11. **Cecilia Padres,** Environmental Health Specialist II, alleging retaliation and political affiliation discrimination by the Department of Planning and Land Use.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff Recommendation approved. Commissioner Fisher assigned.

12. **2007-04,** alleging discrimination by the Probation Department.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff Recommendation approved. Commissioner Krauel assigned.

13. **Donna Goyer,** Administrative Analyst II, alleging retaliation by the Health and Human Services Agency.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff Recommendation approved. Commissioner Casillas assigned.

SELECTION PROCESS

Appeals

14. **Dawn Beebee-Doss,** Deputy Public Defender III, appealing her non-selection for the classification of Deputy Public Defender IV by the Office of the Public Defender. (See also Item No. 6 above.)

RECOMMENDATION: Accept appeal as timely. Deny request based on merit.

Ms. Beebee-Doss addressed the Commission regarding the alleged improper process utilized for the classification of Deputy Public Defender IV. She asserts that there was an unfair playing field and requests that the Commission set a hearing to review the criteria utilized in the selection process regarding the promotion of DPD IVs.

Robert Stall, Deputy Public Defender, stated that the main issue was whether the process was done in a fair and appropriate manner. Standard Civil Service procedures were followed.

Regarding the issue of timeliness, Mr. Stall suggests that the appeal of Ms. Beebee Doss, as well as the appeals of Steven Binder and Susan McInerney (Agenda Items 15/16 below), were untimely by more than 3 weeks.

Commissioner Bailey clarified that there were two issues before the Commission. Should the Commission determine that the appeal(s) were untimely, then the issue on merit would be moot.

Motion by Newman to bifurcate this Agenda item into 1) timeliness and 2) merit; seconded by Fisher. Carried.

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AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**NONE**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

Agenda Items 14, 15 and 16 are addressed at this point. Eugene Iredale, representing Steven Binder addressed the Commission regarding the timeliness issue as well as the merit of the appeal. Mr. Iredale explained the calculation of the appropriate time limits. Ms. Beebee-Doss concurred with Mr. Iredale's presentation, and added that the appellants relied upon the advice of Dennis Hayes, Esq., their Union advisor.

Susan McInerney next approached the podium. She reiterated that the appellants relied upon and followed the advice of their Union Attorney. She also added that on December 1, 2006, she sent an e-mail to Carlos Arauz, Director of DHR, to advise him of her appeal.

Robert Stall countered that sending an e-mail to DHR, does not take the place of filing an appeal with the Civil Service Commission. Mr. Stall did, however, agree that the Union Attorney did advise the appellants regarding an appropriate time line in which to file their appeal.

Motion by Newman to approve staff recommendation that the appeals are timely; seconded by Casillas. Carried.

AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**NONE**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

Still addressing Agenda Items 14, 15 and 16:

Eugene Iredale, Esq., on behalf of Steven Binder (Agenda Item 15) alleged that the attorneys who have specialized (niche) practices were not given the appropriate weight, and therefore treated unfairly in the selection process.

Susan McInerney (Agenda Item No. 16) requested that all three appellants be treated individually with regard to the merits of their Rule X complaints. Ms. McInerney highlighted unique facts pertaining to her appeal. She alleges that attorneys in specialized practices were never given any notice from the Department that niche practices would hold them back from promotional opportunities. She claimed that the Department promotes on favoritism and

cronyism, not merit. She requests a hearing so that complete facts can be ascertained.

Ms. Beebee-Doss requested a hearing regarding the merits of the selection process due to alleged unfair interviewing and also facts relating to her health.

Robert Stall, on behalf of the Department, supported the position that the selection process was conducted in a fair and equitable manner.

Regarding Appellant Dawn Beebee-Doss:

Motion by Newman to approve staff recommendation to deny a hearing based on merit; seconded by Casillas. Carried.

AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**NONE**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

15. Eugene Iredale, Esq., on behalf of **Steven Binder**, Deputy Public Defender III, appealing his non-selection for the classification of Deputy Public Defender IV by the Office of the Public Defender.

RECOMMENDATION: Accept appeal as timely. Deny request based on merit.

See discussion in Agenda Item No. 14 above.

Motion by Newman to approve staff recommendation that the appeal is timely; seconded by Casillas. Carried.

AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**NONE**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

See discussion in Agenda Item No. 14 above.

Motion by Newman to approve staff recommendation to deny a hearing based on merit; seconded by Casillas. Carried.

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AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**NONE**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

16. **Susan McInerney,** Deputy Public Defender III, appealing her non-selection for the classification of Deputy Public Defender IV by the Office of the Public Defender.

RECOMMENDATION: Accept appeal as timely. Deny request based on merit.

See discussion in Agenda Item No. 14 above.

Motion by Newman to approve staff recommendation that the appeal is timely; seconded by Casillas. Carried.

AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**NONE**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

See discussion in Agenda Item No. 14 above.

Motion by Casillas to approve staff report to deny a hearing; Motion failed for lack of second.

Motion by Newman to grant a Rule X hearing; seconded by Fisher; carried. Commissioner Newman assigned.

AYES:	**BAILEY, FISHER, NEWMAN**
NOES:	**CASILLAS**
ABSTENTIONS:	**NONE**
NOT PARTICIPATING:	**KRAUEL**

OTHER MATTERS

Performance Appraisal

17. **Michael Porter,** Social Worker I, Health and Human Services Agency, requesting the sealing of a Performance Appraisal for the period June 10, 2005 to June 9, 2006. (See also Item No. 5 above.)

RECOMMENDATION: Grant Request

Mr. Porter alleged that timelines were violated in the appeal process.

Commissioner Newman clarified that the issue before the Commission is the question of what harm was done to Mr. Porter by the alleged delays in the appeal process. Mr. Porter replied that he has suffered depression and anxiety for approximately 6 months.

Sr. Deputy County Counsel, Dennis Floyd explained that the actual Performance Appraisal was completed timely, and that the issue before the Commission involves the Performance Appraisal appeal process. He added that four months is not an unusual time line for an appeal. Mr. Floyd added that the appeal process was flawed due to the initial meeting delay and that any harm to Mr. Porter has not risen to the level of sealing the appraisal.

Motion by Newman to deny request to seal; seconded by Casillas. Carried.

There was discussion among the Commissioners with regard To the manner in which to appropriately resolve Commission concerns about issuing timely performance appraisals.

AYES:	**BAILEY, FISHER, CASILLAS, NEWMAN**
NOES:	**KRAUEL**
ABSTENTIONS:	**NONE**
ABSENT:	**NONE**

INFORMATION

18. **Mary Raymond**, Intermediate Clerk, withdrawal of appeal from an Order of Suspension and Charges from the Health and Human Services Agency. (Commissioner Casillas)

Withdrawn.

19. Public Input.

ADJOURNED: **4:05 p.m.**

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:
MARCH 7, 2007