Call to Order            Mr. Manfredi called the meeting to order at 5:31 p.m.

Members Present        Members of the Personnel Commission present were:
                        Ron Manfredi, Chairperson
                        Patt Taylor, Vice-Chairperson
                        Lindsay “Cal” Johnson

                        Members of Commission staff present were:
                        Nancy Kast, Director of Classified Personnel
                        Elba Garcia, Administrative Secretary
                        Marissa Gonzales, Human Resources Analyst
                        Robin Fox, Personnel Technician

Closed Session         At 5:05 p.m. the Commissioners immediately convened to closed
                        session to discuss the Anticipated Litigation per Government code
                        54956.9 (b)(3)(A) – One Case

Open Session           At 5:37 p.m. the Commissioners reconvened to open session.
                        There was no report from the closed session.

Public Comment         There was no comment from the public.

Introduction of Guests The following guests signed in:
                        Lisa Maciel, RC, CSEA
                        Michael Wallace, CSEA
                        Tammy Maddox, FCC
                        Jason Meyers, RC, CSEA
                        Michele Ruby, FCC
                        Richard Ruby, Public
                        Diane Clerou, DO
                        Jesse Maddox, Legal Counsel for the District
                        Dan McCloskey, Legal Counsel for the Commission
                        Samerah Campbell, DO
                        Kelli O’Rourke, FCC
                        Sonya Hildreth, FCC
                        Ed Eng, DO
                        Cheryl Sullivan, FCC
                        Michael Guerra, FCC
                        Roberta Fox, FCC
                        Karen Durham, RC
                        Cindy Caress, Public
### Approval of the Minutes

Ms. Taylor moved to approve the minutes of the August 20, 2007, Regular Meeting as amended with the comments made by Mr. Maddox at the previous meeting. Mr. Johnson seconded the motion and it carried unanimously.

### Action Items

#### Consideration and Approval of Revised Classification Specification for Assessment Coordinator [07-59]

Ms. Kast began by explaining that in February the Commission had approved the appeal by Ms. Ruby and that the Commissions’ direction was to write a new job specification for the Assessment Coordinator and recommend a salary range. Ms. Kast informed the Commission that staff met with Ms. Ruby and reviewed her job assignments as well as the information provided by the district. Ms. Kast continued by explaining that other Coordinator job descriptions were reviewed and that some of their language was incorporated into the Assessment Coordinator job description.

Mr. Manfredi asked if there were any comments from the Commission. Ms. Taylor responded that she did not have any. Mr. Manfredi asked Ms. Ruby if she had any comments. Ms. Ruby responded that she did not have any at that time. No comment was made by the District. There was a brief discussion regarding the action taken earlier this year on the job specification. It was moved by Mr. Johnson, seconded by Ms. Taylor, and unanimously carried to approve the revised classification for Assessment Coordinator at a recommended salary range of 66.

#### Consideration and Approval of Eligibility Lists [07-60]

It was moved by Mr. Johnson, seconded by Ms. Taylor, and unanimously carried to approve the eligibility lists as listed below to be effective for one year unless otherwise stated:

- b. Accounting Clerk III, effective 9/21/2007
- c. Student Services Specialist, effective 9/26/2007
- d. Program Development Assistant, effective 10/1/2007
- e. Registration Assistant, effective 10/2/2007

#### Consideration and Approval of a Core List of Employers to be Used for Recommending Salary Placement [07-61]

Ms. Kast began by explaining that at the September 2007 Commission meeting a moratorium was declared on new reclassification requests until three items were completed. Ms. Kast listed the items as 1. have an approved detailed process for the revision and updates of classification specification families, 2. develop and approve a template clarifying standards for classification specifications, and 3. develop and approve, for salary survey purposes, a core listing of agencies to be used for recommending salary placement.

Ms. Kast explained that the last item was completed first and
mentioned that the District recommended several agencies. Ms. Kast mentioned that CSEA did not make any recommendations and that the Commission staff had provided a list of agencies as well. Ms. Kast discussed the salary survey template and how it would be used in the future. Mr. Manfredi asked if the template was being recommended. Ms. Kast responded it was. Ms. Taylor asked for clarification as to whether all of the lists needed to be approved or if they were just reviewing them. Ms. Kast gave a brief explanation of why all of the agencies were needed and the circumstances of why some of them may or may not be used. Ms. Kast’s explanation was followed by a brief discussion regarding some of the agencies that were listed.

Ms. Taylor moved to approve the Core List of Employers to be Used for Recommending Salary Placement. Mr. Johnson seconded the motion and it carried unanimously.

Consideration and Approval of Appointment of a Hearing Officer for Appeal of Discipline Case [07-62]

Ms. Kast noted a request was received by an employee who had been disciplined by the District and was appealing that action. Ms. Kast requested that the Commission determine if they wanted to hear the case or retain a hearing officer. There was a brief discussion regarding the selection of a hearing officer. Ms. Taylor moved to approve the appointment of a hearing officer for appeal of the discipline case. Mr. Johnson seconded the motion and it carried unanimously.

Note: More detailed and comprehensive minutes of the following item are provided below due to the significance of this topic.

Consideration of Rehearing of the reclassification of Accounting Clerk III, position #2075 [07-63]

Mr. Manfredi began by explaining that consideration of a rehearing of Account Clerk III, position 2075, was a request submitted by Mr. Randy Rowe. Mr. Manfredi briefly discussed Ms. Maddox’s appeal and the action taken. Mr. Manfredi asked Ms. Clerou if she could explain the rationale for the request. Ms. Clerou responded that there were a couple of reasons. First, the District anticipated a flood of reclassification requests from classified employees. Ms. Clerou commented that they have had seven calls from employees or managers who were asking if they would be able to get reclassified since their jobs were considered more complex than Ms. Maddox’s position.

Ms. Clerou explained that another concern was that the reclassification of Ms. Maddox’s position was causing conflict between employees. Ms. Clerou distributed and read aloud for the record the following memo:

“On August 27, Randy Rowe sent Nancy Kast a memo entitled
reclassification of position number 2075 to Accounting Technician II. Copies of that memo were also sent to the Commissioners, Mike Wallace, and Lisa Maciel at the time it was provided to Ms. Kast. A copy of this memo is contained in the packet that’s being delivered to you now. In the memo the District provided its reasons for requesting the Commission reassess Ms. Maddox’s duties. This information was available to the Director of Classified Personnel prior to her sending her recommendation to the Commission for its August 20, 2007 meeting. Below is a summary of the information the District believes should have been in the Director’s report to the Commission when they considered the appeal of Tammy Maddox at the August 20, 2007 meeting. Because this information was not provided to the Commission by its Director, the District believes a rehearing is justified as the Commissioners were not provided with a thorough analysis which realistically showed the impact of a decision to reclassify Position number 2075 from an Accounting Clerk III, range 48, to an Accounting Tech II, range 61. Therefore, the Commission voted with insufficient evidence. Additionally, the Commission’s approval of the reclassification appeal making Position number 2075 an Accounting Tech II was contrary to the Commission’s authority based on its own PC rule 3-26(a)(3), Occupational Hierarchies (copy attached.) Personnel Commission Rule 3-26(a)(3) states, ‘Classification decisions, including salary placement must be made with consideration given to the Classified Service as a whole; not just the impact on one classification and one occupational series.’ This same Commission rule also prohibits the Commission from reclassifying an employee when it results in the salary for a subordinate exceeding the amount paid to that position’s supervisor. Examples of this situation where now the person in position number 2075 make more than their lead are on the second page.

1) The Curriculum Assistant, range 57, at FCC serves as a lead for Position 2075 held by Ms. Maddox on issues regarding computing full-time and part-time faculty load. Both the Curriculum Assistant and Ms. Maddox train the administrative aides and the deans on how to input data and use the Datatel system to generate reports. The Curriculum Assistant is the main trainer for the Administrative Aides on Faculty load issues. However, with the approval of this reclassification Ms. Maddox is now paid four ranges higher than the Curriculum Assistant.

2) The Curriculum Assistant at RC is responsible for the same type of work that is performed by the FCC Curriculum Assistant as well as the additional duties performed by Ms. Maddox; however, Ms. Maddox is now paid four ranges
higher than either Curriculum Assistant.

3) The Accounting Technician II in the District Payroll Office is responsible for the entire district-wide payroll and the concomitant duties. Ms. Maddox’s duties comprise only a small portion of the District Payroll Account Offices’ accounting excuse me. Ms. Maddox’s duties comprise only a small portion of the District Payroll Offices’ Accounting Technician II’s duties yet these positions are now paid. This position is now paid at a higher range um oh excuse me at the same range.

4) HR and Personnel Commission staff has received requests from several Accounting Technician I and II’s incumbents and/or their managers who will now file for a reclassification since hierarchy in the accounting series has been changed. They feel their “accounting” duties are more complex and should remain at a higher range than Ms. Maddox’s.

Subsequent to the August 20, 2007 Commission meeting, I emailed the person who previously worked in Position 2075, Cheryl Sullivan. Ms. Sullivan worked in Position 2075 for four years. She provided the following information:

The Curriculum Assistant, range 57, position is lead over Position number 2075 for training Administrative Aides, data entry and load calculations. The Curriculum Assistant and the Vice President’s Administrative Assistant, range 55, are lead over Position 2075 on general office questions. For payroll issues, position 2075, 25, 2075 confers with Tony Cantu and Sharon Stroemer, Accounting Tech II, range 61.

The District recommends the duties and the reporting structure of Position 2075 be reassessed with an eye toward developing a new classification for this position.”

Mr. Manfredi asked Ms. Maddox if she had any comments and noted to her that he was aware of the difficulty of the issue. Ms. Taylor mentioned that she did not think it was fair to ask Ms. Maddox to comment on something she had not seen before. Mr. Manfredi explained that she did not have to and asked her if she wanted the Commission to rehear the matter. Ms. Maddox responded that she did not know if it was fair to rehear it and commented that everybody had an opportunity to state any facts that they may have had at the time. Ms. Maddox stated that the District had no comment and that was recorded in the minutes.

Ms. Maddox continued by saying that she did not understand why,
if everyone had so many questions at the time of her appeal, those weren’t questions brought up during that time. Ms. Maddox stated that she never received the memo from Mr. Rowe and that she requested a copy of it after Ms. Clerou had told her it was sent on her behalf. Mr. Manfredi asked if it was about her. Ms. Maddox responded that it was and that she would have appreciated a copy given to her from the beginning. Ms. Maddox commented that CSEA did not support the appeal but they also did not have a comment. Mr. Manfredi mentioned that he did not recall having an official item from CSEA.

Ms. Maciel clarified that she did ask Ms. Maddox clarifying questions prior to the decision of the Commission. Ms. Maciel stated that CSEA policy was they would never take a stand as to whether they would or would not support a reclassification. Ms. Maciel explained that they provide support for the employee or the member as they need assistance. Ms. Maddox commented that everyone had the rules on how reclassifications were to be approved. Ms. Maddox stated that her reclassification was approved based on the Reclassification Study Procedures form and commented that she did not think it was fair to go back and redo the whole thing.

Mr. Manfredi asked Ms. Clerou if she could help the Commission understand where in the Commission rules it stated that they had the authority to revisit something of that nature. Ms. Clerou responded that Mr. Maddox could speak to that authority. Mr. Maddox explained that as a general rule an agency such as the Personnel Commission does not have the authority to revisit a prior final decision and stated that reclassifying the Accounting Clerk III to Accounting Technician II during the August 20th meeting was a final decision. Mr. Maddox stated that there were exceptions to the general rule; one exception would be if the prior decision was based on insufficient evidence and the other exception was when the prior decision exceeded the Personnel Commission’s authority. Mr. Maddox explained that, for instance, the Commission may not have considered the impact on the classified system as a whole under Personnel Commission Rule 3-26 and that Ms. Maddox was also moved into a higher range than her supervisor which also violated Personnel Commission Rule 3-26.

Ms. Taylor asked for clarification as to who the supervisor would be and mentioned that Ms. Maddox reports to the Vice President. Ms. Clerou responded that it would be the lead. Ms. Kast asked Ms. Clerou if she was calling lead employees, supervisors. Ms. Clerou responded that typically the District does not pay employees more than their leads. Ms. Kast stated that was not what the rule
said. Ms. Taylor clarified that the rule said “supervisor.” Ms. Clerou responded that the rule said supervisor and that in this District usually an employee was not paid more than their lead.

Mr. Manfredi asked Ms. Clerou if it was her interpretation that the lead person was the supervisor. Ms. Clerou responded that she was not saying they were supervisors, but that the same rule applied. Ms. Taylor stated that the rule said supervisor and that Ms. Maddox’ supervisor was the Vice President. Ms. Clerou responded that she understood.

Mr. Maddox then mentioned that it seemed the Commission did not have sufficient facts to make a final decision or to consider the impact on the classified system as a whole. Mr. Maddox explained that some of the effects of that would be, for example, the seven complaints from existing employees and that additional reclassification requests might result from that decision. Ms. Taylor asked Ms. Kast if she had received employee reclassification requests. Ms. Kast responded that she had not. Mr. Maddox commented that the Commission did have a moratorium on requests. Ms. Kast responded that she had not received any and asked if the district had received some. Ms. Clerou responded that no forms had been received but that people were inquiring about being reclassified. Ms. Clerou commented that there was a moratorium and that no forms were submitted but that she would expect that there will be.

Ms. Taylor asked if people had contacted Ms. Kast. Ms. Kast responded that they have not. Ms. Clerou asked if there were none that had contacted her. Ms. Kast responded that none about reclassifications. Mr. Manfredi stated that it was academic and three issues were insufficient. Ms. Taylor responded that it was not academic but part of the response. Mr. Manfredi responded that what he meant to say was that it was academic on the district’s part because whether or not somebody complained about the appeal, it is not really the issue the Commission should be discussing.

Mr. Manfredi then explained they should be discussing that, if there was insufficient evidence, did the Commission exceed its authority and was Personnel Commission Rule 3-26 broken.

Mr. McCloskey commented that the Personnel Commission should determine the jurisdictional issue first. Mr. McCloskey explained that since the rules do not provide for a rehearing, then the Commission would need to determine whether or not they have the jurisdiction to rehear the matter when the decision was final for all practical purposes based on the reclassification study process and
the rules. Mr. McCloskey discussed several issues that would have to be looked at if the Commission decided to rehear the matter and determine whether or not it would be a good practice for the Commission to do so. Mr. McCloskey advised that both Ms. Maddox and the District had rights beyond the Commission, basically a writ to the superior court if indeed either of them believed the final decision was an abuse of discretion. Mr. McCloskey discussed that if the Commission motioned to reconsider, the code of civil procedure requires that some type of newly discovered evidence or some extraordinary cause was not available at the August 20th meeting then certainly that might be a good cause.

Mr. Manfredi asked for clarification as to whom the evidence was not available to. Mr. McCloskey responded that it was the District and explained that the District had an opportunity to speak; why it was not brought up during that time is what the Commission needs to understand and if the reason is good cause to reopen. Mr. Manfredi agreed and commented that there was no obligation on the part of the Commission to have the information in front of them. Mr. McCloskey explained that information is brought through testimony, exhibits, witness demeanor and there is no requirement from Personnel. Mr. McCloskey explained that it is important to know why that information was not there during the August 20th meeting.

Mr. Manfredi asked if the information was generally known. Ms. Clerou responded that she did not know until the day after the August 20th meeting. Ms. Taylor asked Ms. Clerou what she didn’t know. Ms. Clerou responded that she did not know the hierarchy of those positions until after. Ms. Taylor asked why she did not know the hierarchy of those positions. Ms. Clerou responded that she works on contract administration and does not do classification and studies unless… Ms. Taylor asked if she worked on salary schedules. Ms. Clerou responded that she negotiated salaries. Ms. Taylor asked Ms. Clerou if she knew what classifications were on which ranges. Ms. Clerou responded that she did not really know.

Mr. Maddox commented that it should not matter because what Mr. McCloskey was referring to was the Code of Civil Procedure and that it applies to court proceedings where you have two parties, a judge and a jury in the case. Mr. Maddox explained that in this case he did not think the code could be quoted and that it did not apply to this situation. Mr. Maddox explained that the situation was different from a court proceeding that there was two parties but there is also the Director of Classified Personnel that had the duty
to provide the Personnel Commission with accurate information to enable them to make a valid decision. Mr. Maddox commented that he thought the Commission did not receive complete information and that they were not able to make a correct decision based on the information that was available.

Mr. Manfredi asked for clarification on Mr. Maddox’s comment and asked if there was the possibility that they were not given complete information by Commission staff and therefore reconsider the hearing. Mr. Maddox responded yes, that was correct. Ms. Taylor asked Mr. Maddox if what he was saying was that providing information was solely the responsibility of the Director and no one else. Mr. Maddox responded that he did not say it was no one else’s responsibility. Ms. Taylor asked what he meant exactly. Mr. Maddox responded that the issue was different from a court proceeding where you have more than just adversaries providing information. Mr. Maddox stated that the Director of Classified Personnel’s responsibility is to provide the Commission with complete information about how a reclassification decision is going to impact the Classified system as a whole.

Mr. Johnson commented that the Commission heard the director, Ms. Maddox and the vote was taken. Mr. Johnson stated that in the previous meeting the Commission asked the District if they had anything else to add and they did not. Mr. Johnson mentioned that two weeks later the District came with a letter from the Vice Chancellor of Human Resources regarding the motion that was taken. Mr. Johnson also mentioned that he just found out that CSEA did not take a position as it relates to supporting or opposing, relating back to what Ms. Maciel had discussed in an earlier discussion; Mr. Johnson stated that CSEA is here to support their members. Mr. Johnson then explained that Ms. Maddox’ supervisor did not oppose what she said and based on that the decision was made. Mr. Johnson stated that after making the decision they could not turn around and penalize Ms. Maddox because the Board found additional information.

Ms. Clerou asked if she could address Mr. Johnson’s comments. Mr. Manfredi said that she could. Ms. Clerou began by explaining that she had spoken to Mr. Cantu before the meeting in which he had advised her that he had a doctor’s appointment and asked if the meeting could be delayed until about 6pm. Ms. Clerou explained that she went to Ms. Kast before the meeting and asked her if the meeting could please be delayed. Ms. Clerou continued by saying that Ms. Kast did not delay the meeting and some information from Mr. Cantu was missed out. Ms. Clerou stated that Mr. Cantu was shocked after he read the minutes. Ms. Clerou stated that the
second part of her response was that she did not think it was her job to do hierarchical impact for reclassification and informed that hierarchical occupations and all other staff fall under the Personnel Commission.

Ms. Clerou commented that she assumed there was no other impact until people walked into her office the following day and made comments on how the decision had gotten the hierarchy all askew. Ms. Clerou explained did she did not go in and do an assessment and that she figured Ms. Kast had provided all of the information the Commission needed in order to make a sound decision. Ms. Clerou stated that she saw she was wrong. Ms. Taylor mentioned to Ms. Clerou that it was not good to assume anything and that she should know that. Ms. Taylor commented that she took offense with Ms. Clerou trying to blame Ms. Kast in a public meeting. Ms. Clerou responded that Ms. Taylor could take offense if she felt she should; it was ok. Ms. Clerou stated that was her job and how the District saw it and that the Commission was not given ample information to make a decision.

Ms. Taylor asked how Ms. Clerou knew that the Commission did not have enough information. Mr. Manfredi responded that he did not know that. Ms. Taylor responded to Mr. Manfredi that she was not asking him if he did or didn’t know. Mr. Manfredi responded that it was too bad, he would comment as well and that Ms. Taylor did not have to be rude to him. Mr. Manfredi mentioned that the situation was that he did not know the information and that there was no reason to be rude about it. Mr. Manfredi stated that he did not know and to him that was insufficient information.

Ms. Kast then asked for clarification as to whether any decision made by the Commission which does not agree with the District would mean that the Director did not provide the Commission with sufficient information. Ms. Clerou responded that it was not a correct statement and that in this situation the impact on the hierarchy was not provided. Ms. Kast then asked if in other cases where the District agreed with the decision, and the information on the hierarchy is or is not provided, then that was sufficient information. Ms. Clerou responded that she would assume so, if the District did not complain.

Mr. Manfredi commented that he had been asking for hierarchical information for several years and had not received it. Mr. Manfredi explained that his decision was based on the arguments, which at that time the individual presented a stronger argument. Mr. Manfredi explained that revisiting would cause more problems than not revisiting. Mr. Johnson moved that the Rehearing of the
reclassification of Accounting Clerk III, position #2075 be denied.
Ms. Taylor seconded the motion, and it carried unanimously.

Per Commissioner agreement, the item was removed from the agenda.

Ms. Kast advised the Commission that Mr. Johnson’s appointment was up for renewal and that Ms. Taylor was going to be moving out of the area; therefore, she would not qualify to be a Commissioner for the Personnel Commission. Ms. Kast expressed concern about not having Commissioners for the December meeting. Mr. Manfredi asked Mr. Johnson and Ms. Taylor if they were going to be at the November meeting. Both Commissioners responded they were. Ms. Maciel advised that CSEA was conducting interviews and advised they would have an appointment by Thursday.

Mr. Manfredi directed that Commission staff prepare an immediate advertisement of the at-large commissioner as well as contacting the people who had applied before. Mr. Manfredi advised that the Commissioners will do advertising themselves. Ms. Kast advised that the Commissioner could be sworn in at the December meeting.

Ms. Kast began by briefly discussing the CSEA Focus magazine article featuring the district managers’ job shadowing classified employees. Ms. Kast updated the Commissioners on the current status of the recruitment for Vice President of Administrative Services. Ms. Kast then discussed the conference she attended in Reno, Nevada and stated that they had a series of good workshops. Ms. Kast informed the Commission that CODESP, an agency the Commission uses for employment testing, provided a training session at the District. Ms. Kast commented that the training room that was located at the district office is no longer available and that Commission staff would be conducting most of the online testing at Fresno City College until the new training room is opened.

Mr. Manfredi apologized to Ms. Taylor for earlier comments and mentioned that he has had a great time working with Ms. Taylor; he continued by adding that the Commission has made a lot of improvement. Mr. Johnson commented that for him it was a really enjoyable experience but working with Fresno Unified School District has taken a lot of his time. Mr. Johnson commented that the Commission has made a lot of strides.

At 6:40 p.m. Mr. Manfredi moved to adjourn the meeting. Mr.
Johnson seconded the motion, and it carried unanimously.

Nancy Kast, Director of Classified Personnel

NK:eg