

RECORD

PERSONNEL COMMITTEE

6.25.2014, 9:00 a.m., Little Rock Headquarters

The meeting was called to order by Commissioner Scott, who noted the presence of members Commissioner Baldrige and Streett. Commissioners Frazier and Engstrom were also present. Staff members present included Director Woosley, Internal Auditor Brown and staff members Block, Basham, Vick and others.

Commissioner Scott called the meeting to order. The first order of business was approval of the draft record of the meeting held on June 4, 2014. Commissioner Baldrige made a motion to approve the record, the motion was seconded by Commissioner Streett, and the record was approved unanimously.

Commissioner Scott recognized Director Woosley to discuss the next item on the agenda, the discussion of open positions. Director Woosley stated that he and (retiring) Security Director Huey interviewed 14 applicants for the Security Director position. He said that of those applicants, four of them stood out, two of whom had lottery experience. One applicant, Daryl Backes, the current Integrity and Security Manager (the equivalent of ALC's Security Director position) for the Missouri Lottery, had been with that lottery since 1985 and had served as the Security Manager since August 2010. Director Woosley stated that Mr. Backes had been involved with and had actually consulted with another state regarding monitor games, which would be helpful to ALC. He had also completed a MUSL audit. Additionally, he had gone through several conversions related to vendor contract changes and had worked with at least three of the four major lottery vendors. Director Woosley stated that he came up with a salary of \$98,500 to offer Mr. Backes and explained that he had arrived at that number based on the salary range offered to CFO Fetzer, whose position is not only the same grade as that of the Security Director, but that Mr. Backes was bringing to ALC a comparable amount of experience in his particular field.

Commissioner Baldrige asked if Mr. Backes had any Arkansas connections, either through the ALC or through the Legislature. Both Director Woosley and Mr. Huey stated that they did not know of any Arkansas connections, nor were there any Arkansas references on Mr. Backes' application.

**Commissioner Baldrige made a motion that ALC hire Daryl Backes as the new Security Director at the salary of \$98,500. Commissioner Streett seconded the motion and the motion passed unanimously, to be brought before the full Commission for approval.**

The next agenda item was discussion of MSR hiring procedures. Commissioner Scott noted that there had been a lot of discussion recently about what exactly the ALC hiring policy was, especially regarding the hiring of Marketing Sales Representatives (MSRs), and he recognized Director Woosley to explain the procedures to the Personnel Committee. Director Woosley stated that an MSR had resigned several months ago and ALC had recently hired into that

position. He said there was probably some confusion related to several sets of circumstances. He explained that in the past, ALC had [job] postings that required the MSRs to live within the territory. On other occasions, postings stated that preference would be given to applicants who live within the territory. ALC has at least four MSRs and one RSM who live outside their territories. The practice over the past five years has been to allow MSRs to live outside their territories within a reasonable distance. He added that there are policies and procedures in place related to mileage, that is, MSRs who live outside their territories cannot begin calculating mileage until they have reached a certain point at the beginning of their territory. When the newest MSR was hired, there was a posting in the Log Cabin Democrat which stated that the MSR must reside in the territory. There was a posting on the Arkansas Jobs website that directed an applicant to ALC's website to view the actual posting. On the ALC website the posting stated that applicants must reside in the area, but also stated in another paragraph of the same posting that preference would be given to individuals who resided within the territory. Director Woosley stated that he did not review the copy prior to the job postings since that was not typically his practice. He said that several people were interviewed for the position, one of whom lived outside of the territory. He added that another one who was chosen to interview lived in California. He stated that a recommendation was made and there was a difference of opinion on who was the best candidate. He said he visited with Director of Sales Stebbins, who had some thoughts on it. Director Woosley stated that, based on the Human Resources payroll narrative, the ultimate decision to hire was his, based on the conversation and recommendation he had from Director Stebbins. Director Woosley stated that he directed that the individual be hired. He said that after she was hired, it was brought to his attention that the job postings were inconsistent. He asked what had been done in the past and [based on that information] an exception was made in the hiring letter. He added that the new hire had resigned from her previous job to take the MSR position, has been with ALC for two or three weeks and all indications are that she is a promising employee. Shortly after the hire ALC had some FOIA requests and ALC began looking into it. He said that there appear to be some glitches in how positions are pieced together and that he would like some time to look at that before hiring another MSR. He added that he wanted postings to be written in such a way as to give ALC the greatest flexibility. He said that his desire was that, within reason, no qualified candidate is ruled out because they live outside of the territory. He said that territories are changed every so often and it is conceivable that an employee could be gerrymandered out of their own territory, or some employees could get married and move outside of their area. He said he disagreed on a hard line being taken. He said that there needed to be something in ALC [hiring] policy to use the latest job description for postings and that if any changes were made to those job descriptions, the changes needed to be approved by the Director and the Director of the Division concerned. He said that would probably have alleviated the issue. He stated that, given ALC's practice of allowing it and the mistake in the conflicting job postings, that ALC move forward and take no action, but to not make the same mistake in the future.

Commissioner Engstrom asked if it was legal to require that the MSR live in their territory and Director Woosley stated that he did not know the answer to that question. Commissioner Engstrom then asked if MSRs who lived outside of their territory were able to claim mileage

from their home. Director Woosley responded that the mileage begins when the MSR enters the territory.

Commissioner Baldrige asked which counties were involved. Director Woosley responded that the territory covered Faulkner, Van Buren, and White counties. She asked where the new hire lived, and the Director responded that she lived in Little Rock. She then asked if the candidate had any sort of connection to the area, and the Director said he did not know. Commissioner Baldrige stated that her recollection was that after the original start-up hiring of 22 sales people, this was the first time ALC varied from hiring someone from within the district. Director of Sales Stebbins responded that since 2009, one MSR has moved from a territory she lived in to one that she does not live in, but that no new hires have lived outside of their territory.

Commission Scott asked whose decision it was to hire MSRs, that is, was it solely the Director's decision or the Director's decision after consulting with the Sales Director, or was it a group decision. Director Woosley said that it was based on the Human Resources procedure which cites the recommendation or conversation with the Divisional Director. Commissioner Scott said that the thing that jumped out at him with all the papers going back and forth was the score sheet. The person who was hired scored the lowest according to the score sheet, which, he added, was just one person's evaluation. He asked the Director if the score sheet raised any red flags, and if he questioned why ALC was hiring someone who appeared to be the least qualified candidate. Director Woosley said he had some issues with the score sheet, adding that he did not see it prior to the candidate being hired. He said he would prefer to take his Divisional Director's word [rather than use a score sheet]. Commissioner Scott asked if Director Woosley meant that despite the low score, that candidate was the Divisional Director's choice, to which Director Woosley responded in the affirmative. Director Woosley added that an argument could have been made for three or four of the candidates, and that the hiring decision was a subjective one.

Commissioner Scott asked if a reason was given to him as to why that candidate was the best choice. Director Woosley said he thought it was in light of the interview. Commissioner Scott asked if the successful candidate was recommended to him as the best of the seven candidates based on the interview and Director Woosley again responded affirmatively, adding that they [he and the Divisional Director] had a conversation in his office about it.

Commissioner Scott asked if there was any reason to believe that anyone influenced the [hiring] decision. He added that it appeared very irregular that someone who scored so low would be hired. He said that irregularity raised some red flags. Commissioner Scott said that in the past some MSRs could have been hired through the recommendation of a legislator and he asked Director Woosley if he seen anything like that happen in this case. Director Woosley stated that he receives recommendations on every single job ALC posts. He added that he takes those recommendations into account and tries to reconcile them in the hopes of making the best decision for the agency. He stated that he would consider it very irregular for someone to draw up their own scoring grid, in light of what everyone else (in the agency)

does, adding that he had never been brought anything like that by his directors in the process of the recommending the hiring of someone. He said that in his experience of interviewing for positions he did not know that he could put a mathematical formula on how to hire someone. He said that personality, drive, and ambition could be factors. He said that he understood the questions that Commissioner Scott had, but that at the end of the day, writing a score down on a piece of paper didn't have much bearing [on the hiring decision].

Commissioner Streett asked Director Woosley if he personally interviewed the person. Director Woosley responded that he did not. Commissioner Streett then asked if he took the recommendation of the Divisional Director. Director Woosley said he took the recommendation, reviewed the resumes, and he added that he might bring up to the commissioners that he sit in all of the interviews, especially if it was going to rise to his level and he was going to be held accountable for it.

Commissioner Baldrige asked Director Woosley if he had known the successful candidate. Director Woosley responded that he had encouraged the person to apply.

Commissioner Streett stated that, ultimately, the authority that the Director has gives him the right to make hiring decisions, and unless the Commission wants to change the rules and have the Commission make hiring decisions, he didn't see any problem with having a discussion and asking questions, but that the Commission needed to remember that the Director has been vested by the Commission with the authority to make the ultimate hiring decision. He said that as far as looking at the scoring sheet, it was certainly something that could be considered, but he said there was sometimes a great disparity in how individuals used scoring.

Commissioner Engstrom stated that enough questions were raised [in the hiring decision] to at least ask what criteria was used to override the scoring, if only to understand the process. He added that he agreed with Commissioner Streett that the ultimate decision to hire rested with the Director.

Commissioner Scott stated that he had been on the Commission a year and it was the first time he had seen a score sheet. He said it was also the first time he had any indication that ALC appeared to hire someone who was the least qualified for the position. He said he thought it was irregular and that was why he wanted to bring the subject up for public discussion. He said that now he was hearing that there was more that goes into the process than one person's opinion, that it was the recommendation of the Director, that the Director had some knowledge of that person's skills prior to her applying for the position, that may or may not have contributed to the decision. Commissioner Scott said it was a matter of concern not only for whether or not it was a fair decision, but also from a legal standpoint, in that a person who wasn't chosen for the position might choose to take legal action. Commissioner Scott said that the questions have been asked, Director Woosley has responded, and it appears that Director Woosley was not the one who made the choice to hire the individual.

Commissioner Scott asked Director Woosley if it was his recommendation that ALC not use score sheets at all during the interviewing process. Director Woosley stated that he did not want to use score sheets and restated that he did not believe there was a mathematical formula to hiring the best candidate. He said he trusted his gut, his training, and his experience much more than he trusted [a score sheet].

Commissioner Streett stated that he thought it was a misstatement to say that ALC hired the least qualified person. He said they were least qualified on the score sheet, but it was just one person doing the scoring. He stated that the Director would not hire someone who was the least qualified, so it was unfair for the Commission to second-guess the decision.

Commissioner Scott asked Director Woosley if he had any other comments. Director Woosley said that staff would review and prep through the [FOIA] e-mails and if changes needed to be made [in hiring practices], those would be brought before the Commission before anyone else was hired.

There being no further business, the meeting was adjourned.