

civil service commission

BOARD OF REVIEW AND APPEALS



Commissioners

Don Becker
Alyse M. Lazar
J. William Little
Haywood Merricks III
James Vandenberg

MINUTES
REGULAR BUSINESS MEETING
THURSDAY, DECEMBER 9, 2010
9:30 a.m.
LOWER PLAZA ASSEMBLY ROOM

- I. **CALL TO ORDER** – Chair Vandenberg called the meeting to order at 9:30 a.m.
- II. **ROLL CALL** - Commissioners present: Chair Vandenberg, Vice-Chair Merricks, and Commissioners Becker, Little and Lazar. Staff present: Cheryl Shaw, Commission Assistant, Robert Orellana, Law Advisor and Jim Dembowski (IR).
- III. **PLEDGE OF ALLEGIANCE**
- IV. **MINUTES FOR APPROVAL** – The minutes of the Regular Business Meeting of October 28, 2010, were approved on motion by Commissioner Little, seconded by Commissioner Becker. The minutes of the Special Meeting of October 28, 2010, were approved on motion by Commissioner Becker, seconded by Commissioner Little.
- V. **PUBLIC COMMENTS** – Mr. Dembowski (IR) informed the Commission that the County has reached a tentative agreement with the California Nurses Association. The MOA is scheduled for a first reading by the Board of Supervisors on December 14, with final adoption scheduled for the Board's meeting on January 25, 2011. After discussion it was determined that the Commission would call a Special Meeting in early January to conduct a Section 103 review of the proposed MOA.

Mr. Dembowski further informed the Commission that the Ventura Employees' Association had recently received the County's final offer and had until December 28th to respond. Assuming the proposed MOA is accepted by VEA, a Section 103 review could possibly be conducted by the Commission at the same meeting as that being held for review of the Nurses Association MOA. Mr. Dembowski indicated that VEA is comprised of the engineering bargaining unit and the assessor's bargaining unit.

- VI. **OLD BUSINESS** – None.

VII. NEW BUSINESS – Discussion regarding required Notice to Civil Service Commission pursuant to Personnel Rules and Regulations Article 21, Section 2102 and Ventura County Ordinance Code Section 1352-1.

Jim Dembowski (IR), Tracey Pirie of the Ventura County Sheriff's Department Human Resources office, and Tom Temple, County Counsel, were present for the discussion.

Chair Vandenberg reiterated that the Commission desired to insure that the employees of the County were afforded their appeal rights before the Commission in the most timely fashion possible relative to any personnel action that may be taken, and questions had been recently raised regarding compliance by County agencies with the Personnel Rules and Regulation's requirement that duplicate notices of disciplinary action taken be filed with the Civil Service Commission.

Ms. Pirie stated that she had consulted with County Counsel and that some legal concerns had arisen regarding the Sheriffs' Department's compliance with providing the Commission copies of said notices. Tom Temple stated that providing copies of the notices to the Commission would raise problems with confidentiality in light of the Copley Press decision which addressed confidentiality of personnel records of peace officers.

Mr. Orellana advised the Commission that this was an area of the law that was unsettled in that the Copley Press decision found that a Civil Service Commission was part of the County. Further, the Ventura County Ordinance does predate the Copley decision but it would still be permissible for the Commission to obtain minimal information such as the date that disciplinary action was taken against a peace officer so that the Commission's office could calendar deadlines for potential appeals to be filed.

Mr. Temple indicated that included in the peace officer group would also be District Attorney Investigators. Ms. Pirie stated she felt the Sheriffs' Department could comply with providing minimal information to the Commission Assistant via e-mail about dates that disciplinary actions are taken and whether said action was in the form of dismissal versus a lower form of discipline.

Commissioner Little indicated the rule does not seem to have been previously enforced and expressed concern of any legal ramifications with the requirement now being enforced. Mr. Orellana indicated that if it becomes a problem, the Commission could issue a memo formally requesting compliance.

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Mr. Dembowski stated that the rule had been on the books for many years and was followed when any type of labor issue came before the Commission. However, approximately 2 decades ago there was an informal agreement made by the Commission that notices would not need to be received if a disciplined employee wished to keep any action taken against him quiet, as that was the employees prerogative and that the key portion of the Ordinance was that the employee was given proper notification of their rights of appeal to the Commission.

Commissioner Little indicated his appreciation for the fact that many employees may wish to keep disciplinary actions taken quiet but inquired if there could be a similar accommodation for those employees, other than peace officers, to merely have the Commission informed of the fact that an action had been taken and the date of said action for calendaring purposes. In response to Commissioner Lazar's inquiry about the language of the Ordinance requiring an actual copy of the notice, Mr. Orellana stated that the Commission could make an accommodation regarding the form of the notice received. The Commission is without the authority to change the actual wording of the Ordinance or Rules.

It was agreed that the Commission would receive e-mail notifications from both CEO and the Sheriff's Department concerning the date and type of action taken without disclosing the employees' name so that the 10-day deadline for filing a request for appeal could be calendared. Ms. Shaw will also confirm that the e-mail notice was received. Mr. Temple also requested that the Commission make efforts to inform the Sheriff's Department as quickly as possible when requests for appeal are received. Ms. Shaw stated that copies of the confirmation of receipt of appeal would be sent to the Department.

VIII. REQUEST FOR HEARING - None.

IX. REQUEST FOR INVESTIGATION – None.

X. INFORMATIONAL – None.

XI. COMMISSION/STAFF COMMENTS

Commission Assistant Cheryl Shaw reported that she was working with IT to institute the unified fax capabilities for the office. This would not only allow receiving of faxes via e-mail which would be convenient due to the part time office schedule but would also save between \$25-\$50 per month in the budget as the charge for one or both of the fax ports in the office could be eliminated.

XII. ADJOURNMENT – The meeting was adjourned at 10:05 a.m.