

civil service commission

BOARD OF REVIEW AND APPEALS



Commissioners
Don Becker
Alyse M. Lazar
Haywood Merricks III
Joyce A. Taylor
James Vandenberg

**MINUTES
REGULAR BUSINESS MEETING
THURSDAY, APRIL 25, 2013
9:30 a.m.**

**County of Ventura Government Center
LOWER PLAZA ASSEMBLY ROOM**

- I. **CALL TO ORDER** - Chair Merricks called the meeting to order at 9:34 a.m.
- II. **ROLL CALL** - Commissioners present: Chair Merricks, Vice-Chair Becker and Commissioners Vandenberg, Lazar and Taylor. 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 January 24, 2013, were approved on motion of Commissioner Lazar, seconded by Commissioner Vandenberg, with Commissioner Taylor abstaining as she was not present during the January 24, 2013, meeting.
- V. **PUBLIC COMMENTS** – None.
- VI. **OLD BUSINESS** – None.
- VII. **NEW BUSINESS** – None.
- VIII. **REQUEST FOR HEARING** – Anthony Sheppard, IT Services (Case No. 13-102-19-04), Termination.

Chair Merricks stated that the above request for appeal was received and that the agency was not contesting Mr. Sheppard's right to a hearing, which Mr. Dembowski confirmed. Chair Merricks indicated that Mr. Sheppard informed the Commission that he is under military deployment and has requested, and been granted, a continuance relating to his request for appeal until his return. This matter will, therefore, appear on the Commission's agenda following the petitioner's return from deployment.

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Mr. Orellana indicated that Federal law requires that the appeal hearing be held no sooner than 90 days after the petitioner is relieved from his duties or deployment. In response to Commissioner Vandenberg's question regarding the petitioner's request for an informal hearing, Mr. Orellana stated that if the petitioner does in fact elect to proceed under the informal process, the parties would not be entitled to representation and that he would act as law advisor to the Commission on the matter.

Ms. Shaw stated that there had been an inquiry from the Fire District concerning the privacy rights relating to a Fire District employee that may have been involved. Mr. Dembowski indicated that in response to that concern the IT Services Department had revised the Notice of Discipline dated April 5, 2013, to delete any identifying reference to the Fire District employee and requested that the letter shall be deemed the official Notice of Discipline for this matter. Mr. Orellana advised that the original letter given to the petitioner is the official document and is part of the public record, although if a public records request is made, the document could be provided by the custodian of the record with or without redactions. It would be a decision of the custodian, the Commission and their counsel to redact the record if a public records request is received.

Mr. Dembowski indicated that IT Services modified the letter merely to eliminate any reference to any individual whose privacy rights are at issue so that person's identity could not be deduced from the document. In response to Chair Merricks, Mr. Orellana stated that the petitioner was not present today but at the time of the hearing the parties could stipulate regarding what documents would be used as evidence in the proceeding.

Ms. Shaw stated that she understood the direction of the Commission relating to the documents received and Mr. Dembowski reiterated that the County had no objection to redacting a document to protect an employee's privacy. Mr. Dembowski also stated that no other agency or entity should be permitted to interfere with IT Services' defense of this matter, since IT Services is the only hiring authority and the Fire District is not a party to this case.

Now that the issue of privacy rights has arisen, Commissioner Lazar cautioned that this should be a reminder that County staff needs to be cautious when drafting such letters in the future.

IX. REQUEST FOR INVESTIGATION – None.

X. INFORMATIONAL – None.

XI. COMMISSION/STAFF COMMENTS

- A.** Presentation of quarterly report to Board of Supervisors regarding Commission's activities for third fiscal quarter.

The Commission voted on motion by Commissioner Vandenberg, seconded by Commissioner Taylor, to direct the Chair to sign the letter to the Board of Supervisors.

- B.** Discussion regarding drafting of form for use in Commission appeal requests.

Ms. Shaw stated that there were other counties which utilize a form for their appeal procedures and that she often receives phone calls inquiring if the Commission utilizes such a form. Ms. Shaw stated that if the Commission wished to have a form drafted for comment and input at a subsequent meeting, she and Mr. Orellana could work on a draft form. The Commission agreed that a form may be useful as long as it was not mandatory and gave no legal advice. Staff was instructed to draft a form for the Commission's review and input.

- XII. ADJOURNMENT** – The meeting was adjourned at 10:00 a.m.