

COUNTY OF VENTURA

# civil service commission

BOARD OF REVIEW AND APPEALS



**MINUTES  
REGULAR BUSINESS MEETING  
THURSDAY, JUNE 25, 2009  
9:30 A.M.  
LOWER PLAZA ASSEMBLY ROOM**

**Commissioners**

John Relle  
James Vandenberg  
Don Becker  
Haywood Merricks III  
J. William Little

- I. **CALL TO ORDER** – The meeting was called to Order by Chair Relle at 9:33.
- II. **ROLL CALL**- Commissioners present: Chair Relle, Vandenberg, Merricks, Becker, and Little. Staff present: Donald Everhart and Cheryl Shaw, Commission Assistants; Law Advisor Roberto Orellana. Others present: Tom Dorch (IR), Pam Briscoe (SEIU), Sylvia Batista (petitioner), and Jim Dembowski (IR).
- III. **PLEDGE OF ALLEGIANCE**
- IV. **CLOSED SESSION** – Law Enforcement Discipline or Dismissal  
CASE NO. 02-19-09-07  
Chair Relle indicated the Closed Session would not be necessary due to a filing of stipulation by counsel to continue the hearing to start August 24, 2009. Hearing scheduled to be approximately 4-5 days. Hearings dates will be August 24, 25, 26, 27<sup>th</sup> (following the regular business meeting) and the 28<sup>th</sup> if necessary.
- V. **MINUTES FOR APPROVAL** – Regular Business Meeting of February 26, 2009;  
Regular Business Meeting of March 26, 2009;  
Special Meeting of April 8, 2009;  
Special Meeting of May 1, 2009; and  
Regular Business Meeting of May 28, 2009.

Due to a computer issue, the minutes from the regular business meetings of February and March, and the Special meetings of April and May 2009, were not available and will be reviewed at the next regular business meeting in July. Minutes of May 28, 2009, were approved by unanimous vote on Motion by Commissioner Vandenberg.

- V. **PUBLIC COMMENTS** – An opportunity for the public to address the Commission on any topic that is not on the agenda, but is within the subject matter jurisdiction of the Civil Service Commission. No action shall be taken on any item not appearing on the agenda. However, the item may be placed on a future agenda or referred to staff for appropriate follow-up.

There were no Public Comments.

800 South Victoria Avenue, L #1500, Ventura, CA 93009-1500

TEL (805) 662-6787 FAX (805) 662-6790

Website: <http://civilservice.countyofventura.org>

Email: [civil.servicecomm@ventura.org](mailto:civil.servicecomm@ventura.org)

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**VI. OLD BUSINESS –**

- A.) Sylvia Batista**, Client Benefit Specialist I      D-04-02-09-08  
Human Services Agency

Request for hearing / Motion to dismiss (continued from May 28, 2009)

Commissioner Becker disclosed that he had previously represented local agencies in negotiations with SEIU and, although he was mostly retired, that he was currently representing the Los Virgenes Municipal Water District in negotiations with its employees who are represented by SEIU. Chair Relle asked for comments or objections regarding Commissioner Becker's participation in the pending hearing and none was received.

Pam Briscoe (SEIU) was present with her client Sylvia Batista. Tom Dorch (IR) appeared on behalf of the Agency. Chair Relle solicited comments from the Commission and law advisor relating to the pending motion. Oral arguments were heard from both sides and the issue of jurisdiction was also addressed by Mr. Orellana. Mr. Demobowski (IR) also spoke as to the issue of jurisdiction.

The Commission voted unanimously, on motion made by Commissioner Becker, seconded by Commissioner Vandenberg, that the motion to dismiss be granted on the basis that the Commission does not have proper jurisdiction over the matter.

- B.) Rose Elliot**, Hospital Nurse Manager      D-02-05-09-05  
Health Care Agency

Commissioner Vandenberg, Chair of the Panel, accepted the stipulation of counsel to continue the hearing to September 21, 2009. Estimated to be a 3-day hearing. Chair Relle set the hearing for September 21, 22 and 23.

**VII. REQUEST FOR HEARING – None.**

**VIII. REQUEST FOR INVESTIGATION – None**

**IX. APPOINTMENT OF ACTING VICE-CHAIR—**

Chair Relle, without objection, appointed Commissioner Vandenberg as Acting Commission Vice-Chair. A formal election will be held at the July meeting when Commissioner Vandenberg becomes eligible for election.

**X. SECTION 103 REVIEW OF MOA AND LETTER TO BOARD —**

MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF  
VENTURA AND LOCAL 721 OF THE SERVICE EMPLOYEES  
INTERNATIONAL UNION (applicable to Student Workers)

Mr. Dembowski represented that the proposed MOA presented no substantive changes to the Personnel Rules and Regulations with two exceptions which involve issues of unfair labor practices and unit determination. Mr. Dembowski stated that, as with the other SEIU MOAs, SEUI and the County had agreed that these issues would proceed to arbitration but that the Student Workers MOA also provided for advisory arbitration for grievances, as outlined in the Board letter accompanying the proposed MOA. The Chair asked for clarification from Mr. Orellana who indicated that the agreement provided that disciplinary actions would proceed through the normal Personnel Rules and Regulations section 2326 procedure, which ends with a decision by the appointing authority (see MOA section 1701), while all others would be governed by MOA section 1604 A. through D., which provides for advisory arbitration with a final decision by the Assistant CEO-HR.

On unanimous vote by motion of Mr. Vandenberg, seconded by Commissioner Little, the Commission will recommend to the Board of Supervisors that their findings indicated that the subject MOA does not adversely impact the Ventura County Personnel Rules and Regulations.

**XI. RECORDS RETENTION POLICY**

Cheryl Shaw, Commission Assistant, reviewed the proposed Records Retention Policy dated June 18, 2009. She indicated that the policy was necessary in order to obtain a shred bin for the CSC office and to comply with County policy. In so drafting, she reviewed the County Administrative Manual, which provides guidelines for such policies, as well as information from the Secretary of State, various government codes, discussions with county counsel and the Superior court records department. Mr. Orellana concurred that the proposed timelines had been reviewed and cross-referenced with other agency guidelines and codes.

The Commission, on motion of Commissioner Vandenberg, and seconded by Commissioner Becker, voted unanimously to adopt the records retention policy dated 6/18/09 without change.

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**XII. INFORMATIONAL-** Items not intended for Commission action, however, discussion regarding these items might evolve into action. Those parties having an interest in these items should attend the meeting, as these matters may not be revisited. – None

**XIII. THE BROWN ACT, COPLEY PRESS, COMMISSION RESPONSIBILITIES, AND PROCEDURES REVISITED—**

Robert Orellana began the discussion with a general overview of the Brown Act. He discussed notice requirements for meetings, the need for posting and the content of agendas as well as the definition of a “meeting” which occurs whenever there is a quorum. He cautioned the Commissioners against having phone calls, e-mails etc. amongst themselves to discuss any business. Social gatherings are excluded unless any Commission business is discussed. With regard to e-mail, procedural matters can be discussed but any questions concerning an individual case or matter should be directed only the Commission Assistant or Law Advisor.

Closed sessions are limited to the presence of the Commissioners, staff assistant, and others only if required to obtain information or an opinion. Closed sessions must also be noticed on the agenda. Additionally, as long as both sides have an opportunity to present and hear all evidence, then the Commission can conduct deliberations in Closed Session. Potential remedies for Brown Act violations include, but are not limited to voiding of the action taken and civil penalties. Action may not be taken on an item not on the agenda. Any new matters which arise during a meeting should be agendized for the next meeting.

Mr. Orellana also commented about the *Copley Press* decision, in which the California Supreme Court addressed the issue of non-disclosure of certain personnel information under the Penal Code. Normally, the Public Records Act and Brown Act would provide public access to all information and matters before the Commission. However, the decision held that information relating to peace officers kept by their employing agency must be kept confidential. An Officer does have the right to waive a closed hearing. Confidential information also includes not just the personnel records, but information which is obtained from these records (i.e., such as when a witness testifies to something that was learned by examination of the records).

Mr. Orellana reviewed the minutes of the Commission from the October 26, 2006, meeting. As noted in those minutes, the Commission previously decided to make all peace officer appeal hearings under *Copley* confidential and to presume that all such hearings shall be closed unless the officer waives this right and requests the hearing be open. Mr. Everhart indicated that the current procedure followed is that when a petition for appeal is received from a law

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enforcement officer, a letter is sent acknowledging the petition, giving the date for the first hearing before the Commission, and acknowledging that under the Commission's policy the hearing will be closed unless the Commission is notified by the petitioning officer that an open hearing is being requested.

A list of the regular Duties of the Commission was also distributed which came from a prior, April, 2007, meeting. The list summarizes the primary duties and responsibilities of the Commission taken from the County Ordinance. There is also a responsibility of the Commissioners to reveal any potential issues relating to disqualification as needed if a conflict arises.

In response to Commissioner Becker's prior list of questions submitted, staff indicated that written responses had been prepared and would be distributed. Once reviewed, further questions would be forwarded to staff to agendaize for the July, 2009, meeting. Mr. Dembowski requested that any documents regarding said discussions also be forwarded to Mr. Nicoll.

**XIV. COMMISSION / STAFF COMMENT**

Cheryl Shaw, Commission Assistant, reviewed how information would be provided to the Commission via e-mail attachments with hard copies provided in packets mailed to the Commissioners on the Friday before the regular business meeting. Commissioner Little requested that the attached items be numbered to match the agenda.

**XV. ADJOURNMENT** – The meeting was adjourned at 12:05 p.m.

**IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE COMMISSION OFFICE AT (805) 662-6787. TIMELY NOTIFICATION OF THE NEED FOR ACCOMMODATION PRIOR TO THE MEETING (72 HOURS ADVANCE NOTICE IS PREFERABLE) WILL ALLOW THE MAKING OF REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY.**