

COUNTY OF VENTURA

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, OCTOBER 24, 2013
9:30 a.m.
County of Ventura Government Center
LOWER PLAZA ASSEMBLY ROOM

- I. CALL TO ORDER** – The meeting was called to order by Chair Merricks at 9:30 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 Lee Cooper, Law Advisor.
- III. PLEDGE OF ALLEGIANCE**
- IV. MINUTES FOR APPROVAL** – The minutes of the Regular Business Meeting of September 26, 2013, were approved on motion by Commissioner Taylor, seconded by Commissioner Vandenberg.
- V. PUBLIC COMMENTS** – None.
- VI. OLD BUSINESS** – William Markov (Case Number 10-221-13-01) regarding Preemptory Writ of Mandate issued by Superior Court on July 10, 2013.

Present for the Petitioner was attorney Stephen Silver of Silver, Hadden and Silver. Assistant County Counsel Matthew Smith represented the Public Defender, with conflict attorney Lee Cooper acting as law advisor for the Commission. It was noted that on October 16, 2013, the parties submitted a joint stipulation of facts concerning the removal of petitioner William Markov's senior attorney designation and pay.

Mr. Smith stated that the Superior Court's order and judgment were fairly clear as the Court found that the Public Defender was required to comply with Article 21 with regard to Mr. Markov's pay and the stipulated facts concede that fact. Mr. Silver reiterated that the appropriate remedy at this time was for the Commission to retroactively reinstate Mr. Markov's pay.

Mr. Cooper indicated that although he did not necessarily agree with some of the prior rulings made in this matter, he advised the Commission that the judgment rendered left the Commission no room to exercise any discretion.

Pursuant to the Writ of Mandate, the Commission unanimously voted on motion by Vice-Chair Becker, seconded by Commissioner Taylor, to vacate its determination of July 26, 2012. On motion of Commissioner Vandenberg, seconded by Vice-Chair Becker, the Commission unanimously voted to rescind the order affecting Mr. Markov's pay and order that the pay differential between that of an attorney III and a Senior Attorney be paid to Mr. Markov retroactively to February 21, 2010, and until compliance is had with Article 21 of the Ventura County Personnel Rules and Regulations.

Commissioner Lazar commented that from the outset the case has been challenging and unusual. She thanked both parties for presenting all the issues to the Commission and thanked Mr. Markov for being patient with the process. Commissioner Lazar stated that she was disappointed that a full settlement between the parties could not be reached. She also stated that given the course of events with the appeals that the court was forced to work in a void without a full record of the underlying facts which ultimately resulted in the superior court relying on dicta contained in the court of appeal's decision.

Mr. Silver indicated that he wanted the Commission's order to be clear that the back pay also included the other elements of Mr. Markov's compensation which were affected. Mr. Smith stated that County policy is to include in back pay all compensation that would have otherwise been included. The Commission voted unanimously on motion by Commissioner Lazar, seconded by Commissioner Vandenberg, to amend its prior motion to substitute the word "compensation" for "pay."

Vice-Chair Becker stated that the bargaining unit agreement had been revised to avoid the same type of issue as Mr. Markov in future matters. Mr. Silver stated that there was some disagreement on the language and that the negotiations process was going to commence soon. Vice-Chair Becker indicated that it would be better to clarify this issue within the bargaining unit agreement itself rather than attempt to amend the County's Personnel Rules and Regulations.

VII. REQUEST FOR HEARING – Greg Marx, Case Number 13-013-13-02 (Ventura County Fire Department).

Ms. Shaw informed the Commission that Mr. Marx had withdrawn his request.

Commissioner Lazar inquired as to the extent, if any, the Commission could consider some of the issues raised by the petitioner. Mr. Orellana stated that the Commission has the ability to conduct investigations into the civil service system and could agendize the matter of undertaking an investigation at a later date. Commissioner Vandenberg stated

he felt the Commission should obtain some more information on the hiring practices of the Fire Department prior to instituting an investigation. Commissioner Lazar stated she would like to see the matter agendized and invite the Fire Chief or his representative to attend the meeting to explain the hiring process. Chair Merricks directed staff to agendize the matter for November 21, 2013, and to extend an invitation to the Fire Chief or his representative to attend.

VIII. REQUEST FOR INVESTIGATION – None.

IX. NEW BUSINESS – Consideration of Merit Increase for Civil Service Commission Assistant based upon Performance Evaluation completed on September 26, 2013.

Commissioner Vandenberg noted that Ms. Shaw continues to be an outstanding employee and stated that she should be given the maximum merit increase allowed of 7.9%, which he also noted won't put her at the top of the scale for her position. The Commission voted unanimously on motion by Commissioner Taylor, seconded by Commissioner Vandenberg, to approve a 7.9 % merit increase for the Commission Assistant, Cheryl Shaw, retroactive to September 29, 2013. Ms. Shaw thanked the Commissioners for the review and merit increase.

X. INFORMATIONAL – None.

XI. COMMISSION/STAFF COMMENTS - Ms. Shaw stated that the quarterly report of the Commission's activities would be combined with the second fiscal quarterly report. In response to Commissioner Vandenberg on the outstanding IT Services case to be scheduled for hearing, Mr. Shaw stated she had calendared to contact the petitioner at the end of November to see if he has returned from military deployment.

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