

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, FEBRUARY 26, 2015
9:30 a.m.
County of Ventura Government Center
Hall of Administration
LOWER PLAZA ASSEMBLY ROOM

- I. **CALL TO ORDER** – Chair Merricks called the meeting to order at 9:31 a.m.
- II. **ROLL CALL** - Commissioners present: Chair Merricks, Vice-Chair Becker, Commissioners Vandenberg and Lazar. Commissioner Taylor was absent. Staff present: Cheryl Shaw, Commission Assistant, Roberto Orellana, Law Advisor to the Commission, and Tabin Cosio (IR).
- III. **PLEDGE OF ALLEGIANCE**
- IV. **MINUTES FOR APPROVAL** – The minutes of the Regular Business Meeting of January 22, 2015, were approved on motion by Commissioner Vandenberg, seconded by Vice-Chair Becker.
- V. **PUBLIC COMMENTS** – None.
- VI. **NEW BUSINESS** – Section 103 review of proposed MOA and letter to the Board of Supervisors of the County of Ventura regarding adoption of 2015-2017 Memorandum of Agreement between the County of Ventura and Local 721 of the Service Employees International Union applicable to the Student Workers Bargaining Unit.

Mr. Cosio outlined the major changes in the new agreement which redefines the student worker position in order to better serve the student worker community and make the opportunity of employment open to more individuals. Student workers will now have a two-year window within which they may work a total of 2,080 hours, provided they work no more than 1,040 hours in either of the two years of employment. With respect to current student workers, the two-year period will begin upon adoption of the MOA. Mr. Cosio further stated that the change would not adversely impact the Personnel Rules and Regulations.

Upon motion by Vice Chair Becker, seconded by Commissioner Lazar, the Commission voted to direct the Chair to sign a letter to the Board of Supervisors stating that the Commission, by a unanimous vote of those present at the meeting, agreed that the proposed MOA will have no adverse impact on the County's Personnel Rules and Regulations. Staff was instructed to submit the letter to the Clerk of the Board of Supervisors for placement on its next meeting agenda.

VII. REQUEST FOR HEARING – None.

VIII. REQUEST FOR INVESTIGATION – Request of Colleen Joyner regarding examination procedures for Data Analyst Program Administrator II recruitment, Case #15-044-10-03.

Petitioner Colleen Joyner was present with Pam Briscoe, SEIU Local 721 union steward. Emily Gardner, Assistant County Counsel, and Kelly Shirk, Director of Human Resources, were present for County Human Resources.

Pam Briscoe stated that although SEUI had not completed its review of the matter to determine if they will represent Ms. Joyner, SEIU does have a concern as SEUI members are potential candidates for the recruitment at issue.

In response to Chair Merricks, Mr. Orellana stated that the Commission's authority with respect to investigations is limited to making recommendations it deems necessary to the Board of Supervisors. He further stated that it is irrelevant if Ms. Joyner has union representation as an investigation can be initiated by a recognized employee union, the Board of Supervisors, or on the Commission's own initiative. Thus, if the Commission wishes to investigate the matter, it is free to do so.

Ms. Gardner addressed the Commission and stated that an investigation was premature as the recruitment was not yet complete. Regardless, the County's position is that an investigation is not warranted under any of the alleged rule violations cited by Ms. Joyner. Ms. Gardner argued that Rule 303, relating to modification of employment standards, permits the Director of Human Resources to modify the minimum experience and education requirements for a class as long as the requirements are substantially equivalent to the approved classification specifications, and the County is permitted to seek the most qualified candidate for a position by adding job requirements.

Ms. Gardner further stated that Rule 307, which pertains to whether a recruitment should be open or posted as a departmental promotional opportunity, is inapplicable. The particular recruitment was an open recruitment and Ms. Joyner has failed to set forth any facts that there were a sufficient number of employees holding status in lower positions which would have supported a decision to post the position as a promotional opportunity.

In response to Commissioner Lazar and Vice-Chair Becker, Ms. Gardner indicated that current County employees are permitted to apply to any open recruitment. Ms. Gardner

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also stated that she believed that none of the individuals chosen to proceed to the oral board examination for the Data Analyst Program Administrator II recruitment were current County employees. Ms. Gardner further stated there was no violation of Rule 505, which prohibits County employees from both devising an examination and scoring or rating said examination, as Ms. Danish, who assisted human Resources in creating the job announcement, did not participate in the oral board examination process.

In response to Chair Merricks, Ms. Gardner indicated that the County is not prohibited from hiring the most qualified candidate or adding job qualifications to enhance the quality of the candidate pool. In response to Commissioner Lazar, Ms. Gardner stated that if recruitment standards need to be modified, a department is permitted to make changes as long as they are still reviewed by a human resources analyst.

Ms. Joyner addressed the Commission indicating she had prepared a packet of materials for the Commission's consideration. Vice-Chair Becker stated it would be inappropriate for the Commission to receive additional documents until the Commission determines whether to undertake an investigation. Ms. Joyner stated that the documents support the allegations set forth in her initial request for investigation. Ms. Joyner further indicated that the recruitment has been completed and that Mr. Engel was hired.

Commissioner Vandenberg expressed concern that undertaking an investigation would result in a trial of personalities. Vice-Chair Becker stated he felt the Commission could analyze and apply the facts to the rules being questioned to determine if they were followed. Commissioner Lazar agreed that the Commission, while not having the authority to dictate what occur in the recruitment process, could investigate how the rules are being implemented.

Upon motion by Vice-Chair Becker, seconded by Commissioner Lazar, with Commissioner Vandenberg opposed, the Commission voted (3 to 1) to conduct an investigation. Chair Merricks directed the investigation hearing to be calendared for Wednesday, March 25, 2015 at 8:30 a.m. Ms. Shaw received and filed additional documents from Ms. Joyner.

IX. INFORMATIONAL – None.

X. COMMISSION/STAFF COMMENTS – Presentation of Commissioner compensation survey for other California Counties.

Ms. Shaw presented the spreadsheet outlining compensation information from other California counties which had civil service commissions similar to Ventura County. Commissioner Vandenberg stated that, given the information, proceeding to the Board of Supervisors was unwarranted. Staff was directed to file the information.

XI. CLOSED SESSION – Performance Evaluations of Outside Legal Advisors.

The Commission went into closed session at 10:25 a.m. and resumed regular session at 10:35 a.m.

Commissioner Vandenberg suggested that consideration should be given to recruiting a third law advisor to assist the Commission in the event that neither Mr. Millich nor Mr. Cooper were available. Staff was directed to agendaize the matter for discussion and consideration.

XII. OLD BUSINESS – Request from Stephen Millich, Outside Law Advisor, to amend contract terms for 2015/2016 fiscal year. (continued from January 22, 2015)

Ms. Shaw stated that in addition to an hourly rate increase to \$190 previously approved by the Commission, Mr. Millich was requesting a minimum amount of compensation, such as \$1,000, be considered for each assigned matter. She further stated that Mr. Millich has been instrumental in settling several appeal matters for which his time and compensation is minimal. Commissioner Vandenberg stated that he was opposed to having different contract provisions for each law advisor and does not feel the Commission should offer travel time reimbursement or a minimum flat rate per matter. Commissioner Lazar also opposed the idea of a minimum flat rate as an expenditure of public funds could not be justified for work not actually completed. Vice-Chair Becker stated that the County did benefit from a significant cost savings for those cases settled prior to hearing.

Upon motion of Commissioner Vandenberg, seconded by Vice-Chair Becker, the Commission unanimously voted to amend the law advisor contracts to increase attorney billing time from 1/10 of an hour to 1/4 hour increments. Staff was directed to draft the necessary contract amendments to reflect the incremental billing change and to also incorporate the Commission's prior decision to increase the law advisor's hourly rate to \$190.

XIII. ADJOURNMENT – The meeting was adjourned at 11:00 a.m.