

# 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, MAY 26, 2011  
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 Shannon Leslie (IR).
- III. **PLEDGE OF ALLEGIANCE**
- IV. **MINUTES FOR APPROVAL** – The minutes of the Regular Business Meeting of April 28, 2011, were approved on motion by Commissioner Becker, seconded by Commissioner Little.
- V. **PUBLIC COMMENTS** – None.
- VI. **OLD BUSINESS** –
  - A. Request from County Executive Office that Commission streamline its procedures for its review of proposed Memoranda of Understanding or Agreement pursuant to Section 103 of the County's Personnel Rules and Regulations.

Chair Vandenberg expressed that the CEO's request had merit but that he also had some reservations regarding initiating a change to current procedures for handling reviews. He stated that the positive aspects of implementing a change would be a potential savings of both time and expense but, in that regard, the Commission has made efforts to combine special and regular meetings when needed in order to be efficient. He also indicated that although Ms. Shaw, the Commission's current assistant, has a legal background, the Commission must take into account both the process and who would be conducting the Section 103 reviews of Memoranda of Agreement in the future. Chair Vandenberg also expressed that he found it helpful in his role as a Commissioner to read and review all proposed changes to MOA's.

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Commissioner Little indicated that he generally agreed with the Chair's comments. He noted that the CEO's request indicated that staff is inconvenienced by the current process but feels that this should not be the major reason for undertaking a change in the process. Section 103 was drafted and implemented for the purpose of having the Commissioners do the reviews themselves and Commissioner Little expressed that should staff undertake this role, the express requirements of Section 103 would not be met. Commissioner Little further indicated that implementing a change would take away a vital task of the Commission and while he appreciates that there exists planning and scheduling issues with the current system, he does not feel that a change is necessary.

Vice-Chair Merricks agreed that to implement a change would in essence be redefining the Commission's role. Apart from the pressure that is created during the negotiation process, Vice-Chair Merricks expressed that the Commission's independent review of MOA's is vital to the process.

Commissioner Becker agreed that it would be more efficient to find a way to eliminate the need for scheduling special meetings to deal with Section 103 reviews. He also stated that in addition to the process outlined in the letter from Mr. Nicoll, the Commission could adopt a different procedure wherein the Chair and law advisor would conduct the initial review of the proposed agreement and then make a recommendation to the full Commission regarding any potential impact on the Personnel Rules and Regulations. Commissioner Becker stated that he did not believe that such a procedural change would diminish the role of the Commission as the Commissioners would still be free to give their input to the Chair. He agreed that the Commission should not implement a change as to the role of the Commission's assistant.

Commissioner Lazar expressed that with the current process in that when special meetings have been called, typically all the Commissioners are present and that each Commissioner brings their own perspective when it comes to review of the proposed MOA's. Should a change be made as described, then if there is disagreement amongst the Commissioners the onus would fall to the Chair, which could potentially delay the process further. She further stated that reviewing MOA's is an important process in that if an employee matter comes before the Commission, the Commission should have had the benefit of having reviewed the MOA which covers that employee.

Mr. Orellana cautioned the Commission that any instituted change in the process should not inadvertently violate the Brown Act's prohibition on serial meetings. He stated that he had drafted a proposed change to the By-Laws for conducting Section 103 reviews should the Commissioners be interested in reviewing it for further discussion.

Commissioner Little expressed that he had no interest in reviewing a proposed change to the By-Laws as the process should involve the entire Commission and not just the Chair. Commissioner Becker agreed that there had been changes through the years which had diminished the role of the Commission but he views Section 103 reviews as more of an administrative function, rather than a significant duty of the Commission.

Ms. Leslie stated that she believed the Commission had addressed all points raised in the CEO's letter and assured the Commission that all efforts are being taken to streamline the process to accommodate timing issues involved in conducting Section 103 reviews.

On motion by Commissioner Little, seconded by Commissioner Lazar, the May 20, 2011, correspondence was received and filed without further action.

- B. Receive and file correspondence from attorney Lawrence Rosenzweig dated May 9, 2011, requesting withdrawal of the following petitions for hearing:  
Dr. Sherilynn Wheaton, Case Number 11-98-23-03, Suspension without Pay West Ventura Medical Clinic; Dr. Steven Barr, Case Number 11-98-02-04, Suspension without Pay West Ventura Medical Clinic; Dr. Linda England, Case Number 11-98-05-05, Suspension without Pay West Ventura Medical Clinic; Dr. Rebecca Wade, Case Number 11-98-23-06, Termination of Employment West Ventura Medical Clinic; Dr. Dana Jennings, Case Number 11-98-10-07, Termination of Employment West Ventura Medical Clinic.

The correspondence was received and filed. The petitioners' requests for hearings were deemed withdrawn. Commissioner Little commented that he believed the three physicians who were suspended without pay are now back at work and the other two physicians have moved on to different employment.

**VII. NEW BUSINESS** – None.

**VIII. REQUEST FOR HEARING** – None.

**IX. REQUEST FOR INVESTIGATION** – None.

**X. INFORMATIONAL** – None.

**XI. COMMISSION/STAFF COMMENTS** – Staff congratulated Chair James Vandenberg on his recent reappointment by the Board of Supervisors to the Civil Service Commission. Cheryl Shaw informed the Commission that she recently met with the County's General Services Agency regarding changes the County intends to make to the Lower Plaza Assembly Room including upgrades to the lighting, sound, and audio visual system.

Chair Vandenberg indicated that unless a request for hearing was received by the Commission pursuant to the Commission's rules, he was inclined to cancel the regular business meeting for June. Staff will keep the Commission apprised should any requests for hearing be received.

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In response to Commissioner Lazar's inquiry, Robert Orellana indicated that the matter involving Mr. Markov was still within the time frame to appeal from the Superior Court's recent ruling. Should the Superior Court's ruling become final, it would be up to one of the parties to request that the matter be placed back on the Commission's agenda. However, if either party appeals the decision, it could come back to the Commission after the court of appeal issues a remittitur.

Commissioner Little commented that with respect to the matter involving Ms. Valenciana, he was pleased to read that the Superior Court noted the Commission had done everything that it should have with regard to processing the petitioner's case.

**XII. ADJOURNMENT** - The meeting was adjourned at 10:02 a.m.