

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, SEPTEMBER 22, 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 and Lazar. 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 July 28, 2011 were approved on motion by Commissioner Becker, seconded by Commissioner Lazar.
- V. **PUBLIC COMMENTS** – None.
- VI. **OLD BUSINESS** – None.
- VII. **NEW BUSINESS** – None.
- VIII. **REQUEST FOR HEARING** –

- A. **Paul Studer**, Case Number 11-250-19-01, Termination
Ventura County Employees' Retirement Association

The Petitioner, Mr. Studer, was not present. Ms. Shaw informed the Commission that she had spoken to Mr. Studer on the phone who stated that he was unsure whether he would be able to be in attendance for today's meeting. Winnie Cai, Assistant County Counsel, was present representing the agency (VCERA). Ms. Shaw informed the Commission that correspondence had recently been received by Mr. Studer in follow up to his prior oral request for a continuance.

Ms. Cai requested that the matter be set for hearing at the earliest date available. She also indicated that the County had no objection to any continuance, except the County should not be held liable for potential back pay based on requests for continuance by Mr. Studer for personal reasons. Ms. Cai confirmed that Mr. Studer was not on the County payroll at this time due to his termination.

Commissioner Becker observed that the County's position was reasonable in that if Mr. Studer was in need of a continuance then the County should not be held liable for his pay. Commissioner Becker also stated that the decision regarding the requested continuance and back pay issues should be made once a hearing date is set and the Commission decides the termination issue. Commissioner Lazar indicated that the Commission should be considering if there is a sufficient basis to go forward with the appeal and if so, then any issues with regard to the assigned hearing date should be taken up at a later date upon good cause shown.

Ms. Shaw indicated that Mr. Studer's verbal request to her was that his matter not be taken up by the Commission until its October meeting, however, Mr. Studer had been informed both verbally and in writing that, since his request was timely received, it would be considered at today's meeting and that a hearing date could potentially be set should the Commission deem the petition sufficient. Ms. Shaw also stated that Mr. Studer had indicated he was potentially available for hearing the week of December 5th but would prefer to have his hearing set in January.

In response to Chair Vandenberg, Ms. Cai indicated that the County was not opposing Mr. Studer's application for hearing. Mr. Orellana confirmed that the Commission had the obligation, if a timely request is received, to place that matter on the next regular business meeting agenda and, if the petition is deemed sufficient, then it should be set for hearing. Because the Petitioner's request for hearing was not being contested by the VCERA, the Commission voted unanimously, on motion of Commissioner Lazar, seconded by Commissioner Becker, that the Petitioner's request for appeal be deemed sufficient and a hearing date set.

Upon motion by Chair Vandenberg, seconded by Commissioner Becker, the hearing of Mr. Studer's appeal will commence on Monday, Dec. 5, 2011, at 9:00 a.m. With respect to assignment of a hearing panel Chair Vandenberg expressed that he and Commissioners Lazar and Becker had familiarity with Mr. Studer's case and his employment with the County based on his prior appeal and suggested, unless there was any objection, that the same Commissioners act on the current hearing panel. Commissioner Lazar stated she had mixed feelings being on the panel based upon comments made by Mr. Studer regarding her participation in the prior hearing. Chair Vandenberg stated he did not feel this was an issue. Commissioner Lazar stated she would agree to sit on the panel and expressed it was to Mr. Studer's advantage to have a consistent hearing panel.

Commissioner Becker stated he felt that no comments by Commissioner Lazar during the prior hearing were inappropriate and he had no objection to the hearing panel remaining the same.

Chair Vandenberg assigned himself and Commissioners Becker and Lazar to the hearing panel with Stephen Millich as law advisor. The appeal will commence on Monday, December 5, 2011, at 9:00 a.m. The parties will be contacted by the law advisor, Mr. Millich, regarding the briefing schedule.

IX. REQUEST FOR INVESTIGATION – None.

X. INFORMATIONAL – Mr. Dembowski introduced Jeffrey Stinnett, a newly hired management analyst with County Industrial Relations. In response to Chair Vandenberg's inquiry, Mr. Dembowski indicated there was only one labor contract currently in the negotiation process.

XI. COMMISSION/STAFF COMMENTS – Ms. Shaw informed the Commission that an anonymous letter had been received from an employee in the Assessor's Office expressing the author's concerns regarding a staff meeting that allegedly contained religious overtures. The correspondence was not received in time to be placed on this meeting's informational agenda but it contained no request for any action by the Commission. Ms. Shaw stated that copies of the letter are available to anyone wishing to view it including members of the public. In response to an inquiry from the Chair, Commissioner Lazar stated that, since the letter did not request any Commission action, it would be unnecessary to agendaize its receipt for a later date. Mr. Orellana agreed and, along with Ms. Shaw, confirmed that the letter had been sent to other agencies including the Board of Supervisors, County Counsel and Human Resources.

Ms. Shaw also stated that she currently had plans for an extended vacation and would not be in the office from October 28 through November 11. She may still have access to e-mail but will put an out of office reply on same and also forward the phones to the law advisor during her absence. She will also check the mail immediately upon her return for any items that may need to be agendaized for the November meeting.

XII. ADJOURNMENT – The meeting was adjourned at 9:55 a.m.