

**MINUTES OF THE SOLANO COUNTY
CIVIL SERVICE COMMISSION**

Regular Meeting
Wednesday, March 14, 2018
Board of Supervisors Chambers
County Administration Center
Fairfield, CA 94533

1.) Call to Order/Roll Call

Commissioner Neal called the meeting to order at 6:30 pm. Roll was called, and the following Commissioners were present: Commissioner Neal, Commissioner Burton, Commissioner Riley and Commissioner Petullo. Commissioner Booe was absent. Commission Staff present were Marc Fox, Director of Human Resources and Commission Secretary; JoAnn Parker, Deputy County Counsel; and Susan Vestal, Recording Secretary.

2.) Pledge of Allegiance

3.) Items from the Public

There were no items from the public. No speaker cards.

4.) Approval of Minutes of the Commission

A motion to approve the minutes of January 24, 2018 as presented was made by Commissioner Burton with a second by Commissioner Petullo. The motion carried 4/0.

5.) Communications:

There were no communications items.

6.) Information Items:

There were no information items.

7.) Additions to, or deletions from, the Agenda

There were no additions to or deletions from the agenda.

8.) Approval of the Agenda

A motion was made to approve the agenda by Commissioner Petullo with a second by Commissioner Burton. The motion carried 4/0.

SCHEDULED CALENDAR

ITEM CSC 18-0007 Approve the Continued Registration of Employee Organizations

Director of Human Resources Marc Fox advised the Commission that the County has received a request for continued registration from the final outstanding bargaining unit, Unit 1. Mr. Fox also confirmed that all other units had submitted requests for continued registration that were approved by the Commission during the January 24, 2018 meeting.

A motion to approve this Continued Registration of Employee Organizations was made by Commissioner Riley. Commissioner Petullo seconded the motion. The motion was carried 4/0.

ITEM CSC 18-0008 Receive a report on Civil Service Rule considerations involving hearing procedures and get any additional direction from the Commission

Assistant Director of Human Resources Jeannine Seher reviewed for the Commission their request for revisions to the hearing procedures in order to streamline the process and make it more efficient. Ms. Seher explained that revisions to the Civil Service Rules were drafted to bring them in line with the direction of the Commission. Ms. Seher reminded the Commission that they were presented with a first draft of the rules' revisions in August 2017 and she explained that she was now ready to present further changes based on the outcome of the meet and confer processes with the labor unions. Ms. Seher further explained that the meet and confer process isn't complete but that the intention is to provide the Commission with an opportunity to know the direction that is being taken and the opportunity offer for additional edits or changes prior to the next Civil Service Commission regular meeting.

Ms. Seher went through the concerns presented by the Commission. She included the issues of redundant or cumulative testimony, the need to encourage stipulations at the onset of the hearing, the need to submit documents earlier than had been done, clarify understanding of the process by all parties. Ms. Seher shared that meetings to meet and confer had been held with three employee organizations; Deputy Sheriff's Association, Local 39 and SEIU.

Ms. Seher summarized and led the discussion with the Commission on these draft rule revisions:

- Hearing request and timing and the need for employees to share their email address for faster communications and openness to stipulate to a hearing date beyond the 20 day requirement.

Ms. Seher also explained the provision that the Commission may consider delays from the Appellant when making decisions regarding any back pay or awards to that employee.

- Deletion of the rule regarding continuance of the hearing pending criminal proceedings.

Ms. Seher explained that, in the case of criminal proceedings, the delay could be quite impactful to the Commission hearing process because of the higher burden of proof in criminal proceedings. By deleting this rule, Ms. Seher explained, the Commission may be able to proceed in a timely manner.

- Language was added to clarify that the Commission may limit testimony that it deems to be repetitive.

President Neal shared his concern that they might be cutting off witnesses who have something new to offer. He also expressed that review of the Commission's decision by other administrative bodies might overturn an outcome based on this process of limiting testimony. Deputy County Counsel JoAnn Parker offered that a hearing body in an administrative proceeding could request an offer of proof from one party by asking directly what the additional witness(es) would say and if the other side would stipulate to this. She also offered that by making an effort to confirm what additional witnesses might say, and getting confirmation of the 'sameness' of the testimony, the Commission could restrict the additional testimony only to the things that are different from previous witnesses. Deputy Counsel Parker explained that this provision in the rule is not a requirement but allows the Commission the authority to proceed in this manner.

- Identify time limits and deadlines regarding the pre-hearing actions.

Ms. Seher shared the new rules state that the parties must pre-mark exhibits and stipulate to facts no later than 10 days prior to the hearing. The amended rules also include that five days prior to the hearing the parties must make sure that the list of witnesses and exhibits are provided to the Secretary. The parties must provide a one-page summary of the hearing and an estimation of the length of the hearing and submit all documents to the Secretary within five days prior to the hearing.

HR Director of Human Resources Marc Fox explained that these changes would allow the Commissioners to have the documents further in advance and allow them more time to study the case and prepare for the hearing. Based on the Commission's discussion it was agreed that instead of the recommended '10 days' the Rules would be changed to '14 days' and instead of '5 days' they would be '7 days'. The Commission also agreed with Ms. Parker's recommendation to include pre-hearing motions of all kinds in the Rule requiring submission 14 days prior to the hearing and that responses must be submitted no less than 7 days prior to the hearing.

Ms. Seher also reviewed that the parties should consolidate documents and mark evidence into the records. Ms. Parker offered that all parties should sequentially number all documents and pages. Mr. Fox added that all parties should be required to submit enough copies for all members of the Commission plus one for the record and also cross-file to the other side. Commissioner Riley asked that the parties also be required to provide access to the exhibits when they are being discussed.

- Standard of Conduct for respectful behavior, argue positions that are legal issues, abstaining from offensive personal remarks and allow recourse for the Commission if these standards are not maintained.

Ms. Seher advised that this has not yet been an issue but it was included for future actions and that these rules allow the Commission to take action if needed. Ms. Parker asked that the rules reflect that the participants be reminded that this are formal proceedings and to treat the Commission as a hearing body and to act accordingly.

- Require that any motion or objection being made during the hearing be supported by citation, case law or statute and that failure to comply is deemed withdrawn.

Ms. Seher reviewed that this is not new but provides flexibility to the Commission.

- Sets forth a process for Pitchess motions

Ms. Seher explained that the Pitchess motions are specifically regarding peace officers and not often received. Deputy Counsel Parker explained a bit about these motions and expressed a recommendation that this type of motion be specifically addressed in the Rules regarding due-dates for motions. Ms. Parker also suggested these motions be addressed prior to opening statements.

Commissioner Riley asked for clarification about which labor unions within the county have employees who would be affected by the Pitchess motion. Mr. Fox offered a list of employee groups who are or might be considered peace officers. Commissioner Riley inquired if the bargaining units that support peace officers were involved or would be involved in the changes that are being discussed. Ms. Seher offered that the process for communicating the intention to change the Civil Service rules includes sending notice to all the employee groups and offers them the opportunity to hold meet and confer discussions. Once the meetings have been held any changes the results are communicated once again.

Additionally, Commissioner Riley asked for definition of the criteria for requesting recusal of a Commissioner from a procedure. He relayed that during the last hearing several hours of testimony was given before the Commissioners knew who the parties were and realized that recusal might be necessary. Ms. Parker replied that one way to reduce this kind of issue is to provide the name of the Appellant to the Commission prior to the procedure. Ms. Parker also restated the new rules regarding provision of motions and exhibits 14 days in advance of the hearing will allow all sides to determine any concerns that might lead to recusal. During the discussion both Ms. Parker and President Neal stated that each commissioner can make their individual decision regarding whether or not they might want to avoid the appearance of impropriety. Ms. Parker offered to provide some guidelines for these decisions however she advised that there is no specific criteria. Mr. Fox reminded the Commission that there is case law in regard to recusal that they can refer to as needed. Ms. Seher advised that the Rules can be changed to state that parties seeking any of the Commissioners be recused must notify the Commission in writing prior to the hearing. Mr. Fox also suggested the Commission incorporate into the Rules if a Commissioner perceives a real or perceived conflict, we can use specified guidelines.

President Neal asked what the Civil Service Rules state regarding the time within which the Appellant must request an open or closed hearing. Commissioner Neal also asked whether or not sharing the name of the Appellant prior to that date might be improper. Mr. Fox shared that the current rule is 5 days prior to the hearing. However, Mr. Fox also clarified that the name of the Appellant can be shared with the Commission prior to this time as it is necessary for the Commission to perform due diligence in their

also clarified that the name of the Appellant can be shared with the Commission prior to this time as it is necessary for the Commission to perform due diligence in their preparations. Ms. Parker confirmed that, if there is a concern regarding confidentiality of this information, the Commission may request the information be relayed to them through Counsel, thus keeping the information between attorney and client. Mr. Fox stated that whether the hearing is open or closed affects what we do regarding inviting the public in person or by broadcasting and how much information is disclosed after the hearing.

In ending the discussion President Neal requested that Commissioner Boo receive a copy of the discussion. Ms. Seher answered that Commissioner Boo would receive the minutes of the meeting. Ms. Seher also advised that the changes suggested by the Commission during the night's meeting would be applied to the Civil Service Rules and there would be another opportunity in the next meeting for the Commission to fine-tune the Rules. She advised that the goal is to come back in April however it may depend on the input from the unions.

President Neal requested it be added to the agenda in April 2018 whether or not the unions have additional comments.

9.) Commission/Staff Comments

No comments.

10.)Adjourn

Commissioner Neal adjourned the meeting at 7:20 p.m.

Respectfully Submitted,



Marc A. Fox

Director of Human Resources