

PUBLIC MEETING MINUTES

DECEMBER 12, 2019

10:00 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD

Headquarters Office

1031 18th Street

Sacramento, California

Members Present

ARTHUR A. KRANTZ, Member

ERIC R. BANKS, Member

ERICH W. SHINERS, Member

LOU E. PAULSON, Member

Quorum Present? Yes

Executive Staff Present

JOSHUA GOLKA, Executive Director

MARY ANN AGUAYO, Deputy Executive Director

FELIX DE LA TORRE, General Counsel

SHAWN CLOUGHESY, Chief Administrative Law Judge

LORETTA VAN DER POL, Director, SMCS

Proceedings:

Meeting called to order at 10:00 a.m. by Member Krantz.

Since October 10th, 2019, the Board has been in continuous closed session to deliberate on pending cases on the Board's docket. A list of those decisions, determinations, and resolutions can be found on PERB's website.

Motion: Motion by Member Banks and seconded by Member Shiners to close the October 10, 2019 Public Meeting.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Adoption of Minutes

Member Krantz officially opened the Public Meeting of December 12, 2019, by asking the Board if they would like to discuss potential corrections to the minutes of October 10, 2019 or move to approve it.

Member Shiners recommended correcting the transposed numbers in the draft minutes to correctly reflect the proposed regulation regarding the length of time the signatures on authorization cards would remain valid.

All Board Members concurred.

Motion: Motion by Member Banks and seconded by Member Shiners to approve corrected minutes of the October 10, 2019 Public Meeting.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Public Comment

No public participants requested to comment on issues outside of the agenda.

Executive Staff Reports:

Joshua Golka, Executive Director, thanked all staff for their hard work on multiple projects and their patience with the changes to the case management system.

Mr. Golka then provided three legislative updates: The Governor signed Assembly Bill 355, which gives PERB jurisdiction over the Orange County Transportation Authority's unfair practice charges; the Governor vetoed Assembly Bill 1681, which dealt with the threshold number for a supervisory peace officer unit at K-12 and community college districts; and the Governor vetoed Assembly Bill 314, which would have harmonized public employees' release-time provisions to a number of statutes.

Mr. Golka reported updates to regulatory matters stating that the regulatory package related to processes for resolving disputes arising under the Public Employees Communication Chapter, the Prohibition on Public Employers Deterring or Discouraging Union Membership, and making changes to the Board's existing regulation concerning designation of precedential decisions is being reviewed by the Department of Finance and the Office of Administrative Law. He expects those regulations governing to be implemented in April of 2020.

Four other packages -- exceptions, State Mediation Conciliation Service, continuances, recusals -- are undergoing background work in preparation of their submittal to the Office of Administrative Law.

Lastly, Mr. Golka reported on staffing changes; two promotions and two departures. Cheryl Shelly, who was previously the Board Appeals Assistant,

has now assumed the role of Staff Services Manager. Joe Seisa has promoted into the position of Board Appeals Assistant. Administrative Assistant Kristina Gonzalez has accepted a position at the Public Defenders Office and Deputy Executive Director Mary Ann Aguayo has decided to retire. Each Board Member expressed their personal appreciation to Ms. Gonzalez and Ms. Aguayo for their hard work and dedication throughout the years.

Deputy Executive Director's Report

Mary Ann Aguayo, Deputy Executive Director, provided a budget update and indicated there are currently no budget change proposals in progress, although PERB does have a funding request for the San Francisco Regional Office lease renewal, which was kicked forward to the spring by the Department of Finance. Additionally, there is a procurement delegation audit in progress; PERB expects to receive the outcome of that audit in February 2020.

Ms. Aguayo stated that recruitment is underway to fill the two vacancies that Mr. Golka announced and to also fill Andy Dang's position in the Division of Administration. Ms. Aguayo then introduced two new staff; Fan Yang, Accounting Administrator II, and Michael Martin, assisting with procurement contracts in Business Services.

Ms. Aguayo reported that the conciliator classification review has been completed for the third time with the intent to submit a conciliator package to CalHR and the State Personnel Board. She further updated the Board on two pay letters; one having to do with additional funds for benefits, the other relating to compensation. An e-mail regarding the status of the pay letters will be sent to all staff attorneys and administrative law judges.

Ms. Aguayo reported on the rollout of ePERB, stating that Retired Annuitant Steve Kawano and Journal Technologies' management is working to correct and fix issues with the system so that it operates smoothly in the future.

Current IT projects include training for cyber security, upgrading to Windows 10, implementing protocols for web page accessibility, building a user-friendly decision search and a cyber security assessment.

Ms. Aguayo then addressed facilities, stating that renewing the lease on the Headquarters building is pending the contractor completing the drawings and ADA compliance approval by the County. A search for a viable location for the San Francisco Regional Office is currently underway.

General Counsel's Report

Felix De La Torre, General Counsel, reported that the Office of the General Counsel had received 114 new unfair practice charges during October

and November, which is an increase from the 90 received during August and September.

In October and November, the Office completed 127 case investigations, which is a slight increase over the prior two-month period of 124 case investigations completed.

In the past two months, the Office issued 60 complaints and dismissed 34 charges. This is compared to 68 complaints issued and 23 charges dismissed in August and September.

The number of litigation matters completed by the Office decreased from 19 matters in August and September to 16 in October and November.

Factfinding requests also decreased; in August and September there were 16 requests for factfinding, while in October and November there were nine.

Representation petitions increased from 10 petitions in August and September to 12 petitions in October and November.

Since the last Board meeting, the Office has received two requests for injunctive relief, two litigation matters filed against PERB, and two final case determinations. Mr. De La Torre provided the details and status on each of the six cases.

Lastly, Mr. De La Torre introduced Stephanie O'Hara, a regional attorney. Though Ms. O'Hara came on board last April, she hadn't had the opportunity previously to meet the Board Members.

Member Banks expressed his appreciation to all the regional attorneys.

Chief Administrative Law Judge's Report

Shawn Cloughesy, Chief Administrative Law Judge, stated that cases are being set approximately three months out from the date of the informal hearing.

Overall, the assignment of cases are up this year and the proposed decisions issued are up significantly. The number of hearings completed are approximately the same as last year. The exceptions ratio is also up, now at 50 percent; whereas, last year the ratio was 33-35 percent.

State Mediation and Conciliation Service, Division Director's Report

Loretta van der Pol, Director, State Mediation and Conciliation Service, introduced the newest Mediator, Raphael Leib, who came on board at the beginning of November.

Along with her written report, Ms. van der Pol provided to the Board an addendum that corrects and updates one of the items relating to the Panel of Arbitrators System, which had been offline. She thanked Steve Foster and Mary Ann Aguayo for working with Joe Rios to get the system up and running again.

Ms. van der Pol reported that, other than one election case that had just come in, all work over the past two or three months has been card checks which is unusual.

Lastly, Ms. van der Pol stated that about a hundred cases are currently pending, which is very typical for this time of year.

Motion: Motion by Member Shiners and seconded by Member Paulson to accept the staff reports.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Old Business

Mr. Golka reminded stakeholders that, after the February Board meeting, PERB will be having a stakeholder discussion on two topics related to the Case Processing Efficiency Initiative; one deals with providing training to pro pers, and the other topic relates to the expedited decision process.

Member Krantz then asked the General Counsel to present the revised package of proposed amendments to the filing requirements regulations.

Mr. De La Torre described each of the revisions and how the minor change in the language clarified the intended meaning of the regulation.

Member Shiners suggested an additional revision regarding the subsection on pro pers filing on paper versus electronically.

Motion: Motion by Member Banks and seconded by Member Paulson to approve submitting the proposed rulemaking package to the Office of Administrative Law in order to initiate the formal rulemaking process regarding the proposed regulations on filing requirements with the two additions the Board just approved; one having to do with confidentiality, one having to do with 32110, and moving one sentence from letter B to letter A, with the existing committee consisting of member Banks and Member Krantz to approve the Office of the General Counsel's changes to assure conformance with the current discussion.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

New Business

Member Krantz offered several reasons that the Board should approve updating and clarifying the transit district regulations currently found in Chapter Nine and elsewhere in PERB's regulations.

Motion: Motion by Member Shiners and seconded by Member Banks to authorize the Office of the General Counsel to proceed with drafting revisions regarding the proposed regulations that govern transit districts.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

Meeting Adjourned.

Member Krantz stated that, immediately upon recess, the Board will be in continuous closed session each business day until the next regularly scheduled meeting on February 6, 2020.

Motion: Motion by Member Paulson and seconded by Member Shiners to recess the meeting to continuous closed session.

Ayes: Krantz, Banks, Shiners, Paulson

Motion Adopted - 4 to 0

APPROVED AT THE PUBLIC MEETING OF: February 6, 2020

Eric R. Banks, Board Member