



PIMA COUNTY

HUMAN RESOURCES
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Merit System Commission Law Enforcement Merit System Council Minutes

The Pima County Merit System Commission/Law Enforcement Merit System Council met at the Board of Supervisors Hearing Room at 130 W. Congress Street, Tucson, Arizona, on Friday, June 26, 2020 at 9:00 a.m.

Commission Members Present were Mike Hellon, Chair; David Freund, Vice Chair; Cheryl Horvath, John Fink, and Paul Rubin

Also Present:

Barry Corey	Counsel for the Commission/Council
Captain Jeff Copfer by phone	Pima County Sheriff's Department
Cory Dent	Appellant
Daniel Jurkowitz	Deputy County Attorney for the Respondent
Jenn Blum	Pima County Attorney for the Respondent
Jim Faas	Appellant
Kevin Kristick	Attorney for Respondent
Lenora Anderson	Paralegal, Pima County Attorney's Office
Lieutenant Jeff Bonds by phone	Pima County Sheriff's Department
Marchelle Pappas	HR/Administrative Services Manager
Mike Tully	Attorney for Appellant
Richard Rollman	Attorney for Respondent
Taylor Green	Pima County IT Support
Trina Bergen	MSC/LEMSC Recording Secretary

The Opening Meeting of the Pima County Merit System Commission/Law Enforcement Merit System Council was called to order by Mike Hellon, Chair, at 9:47 a.m. Roll Call. All persons in attendance were asked to state their names for the record. Pledge of Allegiance.

Cheryl Horvath was introduced as the new member of the Commission/Council. Members welcomed Ms. Horvath.

Item C. Approval of Minutes

Open Meeting Minutes of December 2, 2019

ACTION: Mr. Fink made a Motion to accept the Open Meeting Minutes of December 2, 2019. Mr. Freund seconded the motion. Motion passed unanimously.

Item D. Appeal Hearing

1. Joseph Borquez v. Pima County Sheriff's Department – Appeal Withdrawal

ACTION: Mr. Freund made a motion to accept the withdrawal of the Appeal. Mr. Fink seconded the motion. Motion passed unanimously.

2. Joseph Gonsalves v. Pima County Sheriff's Department – Appeal Withdrawal

ACTION: Mr. Fink made a motion to accept the withdrawal of the Appeal. Mr. Freund seconded the motion. Motion passed unanimously.

3. Nigel Lindley-Dyer v. Pima County Sheriff's Department – Appeal Withdrawal

Mr. Lindley-Dyer had two pending Appeals. Mr. Alatorre's Notice of Withdrawal indicated both appeals were being withdrawn.

ACTION: Mr. Freund made a motion to accept both of the withdrawal of the Appeals. Mr. Fink seconded the motion. Motion passed unanimously.

4. Corey Dent v. Pima County Human Resources Department – Motion to Dismiss

Motion to Dismiss was submitted from the Respondent's attorney since the reason for the Motion has been resolved. Respondent withdrew the demotion and reinstated Ms. Dent to her prior position with full back pay. Then she was laid off. Mr. Kristick informed the Commissioners department budgets were told to reduce their budgets, which involved a county wide layoff. Mr. Kristick contends The Merit System Commission does not have jurisdiction to hear the case.

Ms. Dent opposes the Motion to Dismiss. Instead of being laid off Ms. Dent used her seniority to apply for a position in Regional Wastewater Reclamation Department (RWRD). She was offered the position and accepted. The position is in the same classification as her prior position with Human Resources but with less pay. Her current salary is approximately \$16,000 to \$17,000 less than her prior salary. She is requesting her salary be bought up to her prior pay and the difference of the pay come from the Human Resources budget.

The Notice of Demotion referenced Rule 12.1(C)(19) as "Any other improper conduct or performance, which constitutes cause for disciplinary action, to-wit: providing inaccurate information, engaging in gossip, and expressing negativity about management." Mr. Tully stated the underlined section of the above sentence does not exist in Rule 12.1(C)(19), and contends that Ms. Bohland amended the Rule without authorization.

ACTION: Mr. Freund made a motion to move into Executive Session, Mr. Fink seconded. The motion passed unanimously. The Commission convened to Executive Session for legal advice at 10:42 a.m.

ACTION: Mr. Hellon reconvened the Commission from Executive Session at 11:40 a.m.

Brief discussion of specific budget items to be reduced and the expected reduction percentage. This had to be accomplished prior to the next budget year which starts July 1, 2020.

ACTION: Mr. Freund made a Motion to grant the Respondent's request for a dismissal of the Dent appeal. The motion failed for lack of a second.

ACTION: Mr. Fink made a Motion to deny the Motion to Dismiss the appeal of Ms. Dent. Ms. Horvath second the motion.

Discussion about the demotion and the reinstatement of Ms. Dent's position. The timing of the layoff notice, which immediately followed the reinstatement. If the motion carried the Commission will hear the facts of the case. If the motion is approved the case is closed.

ACTION: Roll Call vote taken. Cheryl Horvath, yes; David Freund, no; John Fink, yes; Michael Hellon, no; Paul Ruben, yes. The Motion to Dismiss is denied.

Hearing dates are to be arranged.

Item E Other Business

1. Review and discussion, and potential response to Mr. Huckleberry's Memo to Commission Members, dated February 25, 2020.

Mr. Hellon noted two things:

- The last sentence of Mr. Huckleberry's memorandum is:

“However, you have now been advised of these issues and can take them into consideration on any future case involving these parties.”

The request Mr. Huckleberry made is not something the Commission is able to grant under the Rules of Procedure.

- The issues he raised and the concerns he has about the parties involved were issues that were never before the Commission in its deliberations.

Everyone is entitled to their opinions. The Commissions' decision is final. Judgements are based on testimony and evidence that is presented. Mr. Hellon stated it would be a violation of due process for any of the Commissioners' to consider some piece of the evidence or item that is not presented at the hearing.

2. Review and discussion, and response to Arizona Attorney General Complaint concerning Executive Session minutes.

Mr. Corey stated for the record, there is nothing to change in respect to our process of recording the minutes.

A complaint was filed with the Attorney General that alleged the Merit System Commission/Law Enforcement Merit System Council does not take minutes. Specifically the minutes only reflect the headings of the matter discussed in Executive Session.

Mr. Corey met with Aurora Hernandez, Recording Secretary, for MSC/LEMSC. He provided direction and format of the Executive Session minutes.

Mr. Corey responded to the complaint and included two copies of MSC/LEMSC Executive session minutes that were unapproved but would soon be approved by the Commission. He raised questions about the complainant because there were some concerns the person knew what going on in Executive Sessions.

There has been no response from the Attorney General's office.

Item F Rule changes/recommendations

1. Retain Law Enforcement Merit System Rule (LEMSR) 8-2 as written.

Captain Copfer sent a memo to Ms. Bohland, Director of Human Resources, stating why LEMSR Rule VIII-2 not be amended. Merit System Rule 8 recently changed and usually a similar change would be made to the LEMSR. It is not possible to make the same change to LEMSR because employees on probation require job experience before being promoted.

In respect to this issue, a Commission response is not warranted at this time. Captain Copfer's memo is to remain on file for future reference if the discussion should arise in the future and his comments will be taken into consideration if the topic arises in the future.

ACTION: Mr. Rubin made a motion to adjourn, seconded by Mr. Fink. Meeting adjourned at 12:28 p.m.