



**PIMA COUNTY  
MERIT SYSTEM COMMISSION  
OPEN MEETING MINUTES OF JANUARY 13, 2020**

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Commission Members Present:  
John Fink, Chair  
Mike Hellon  
David Freund  
Paul Rubin  
Dan Eckstrom, excused

All persons in attendance were asked to state their names for the record.

Barry Corey	Counsel for the Commission
Joseph Gonsalves	Appellant
Mike Tully	Attorney for Ms. Dent
Cory Dent	Appellant
Daniel Jurkowitz	Attorney for Pima County
Jennifer Blum	Deputy attorney for Pima County
Kevin Kristick	Attorney from Bossè Rollman for Pima County for the Dent case
Cathy Bohland	Human Resources Director
Eric Cervantes	Pima County Deputy Sheriff's Association
Rick Garcia	Pima County Deputy Sheriff's Department
Daniel Figueroa	Pima County Deputy Sheriff's Department
Stephen Portell	Attorney for Law Enforcement Officers Union
Lupita Moreno	News 4 Tucson
Paul Birmingham	Investigator/Producer for KVOA News 4 Tucson
Aurora Hernandez	Recording Secretary

The Open Meeting of the Pima County Merit System Commission was called to order by Mr. Fink, Chair, at 9:07 a.m. Mr. Fink led the Pledge of Allegiance. Mr. Fink informed everyone agenda items will be discussed out of order.

**Item 1 - Joseph W. Gonsalves v. Pima County Sheriff's Department, re: Notice of Two Day Suspension without Pay**

Mr. Fink, Chair, read the jurisdictional opening statement into the record and asked if either party wished to invoke the Rule of Privilege, which was explained by Mr. Corey. Mr. Corey explained the Rule of Privilege and asked if witnesses will be testifying. The Rule was invoked by Mr. Jurkowitz.

Mr. Jurkowitz had no pre-knowledge this was a jurisdictional hearing. He did not receive any information from the appellant until today. The Commissioners asked if it would be alright to proceed and Mr. Jurkowitz agreed.

Mr. Corey swore in the witness, Mr. Gonsalves and explained Merit System Rule 14.2, appeals must be submitted with 10 calendar days of receipt of notice of an appealable action.

Mr. Gonsalves provided testimony of the time frame of receiving the notice and his subsequent action to provide good cause for submitting the appeal in a timely manner.

Mr. Jurkowitz stated the last paragraph of the notice indicates he has 10 days to appeal the action and for information on the process to contact Human Resources Employment Rights and the phone number was listed.

He noted that Mr. Gonsalves description of his process is actually the Grievance process, Rule 13, and not the Merit System Appeals process, Rule 14. The Grievance process is done with the Department whereas the Appeals process involves the Human Resources Department.

Mr. Jurkowitz requested a continuance because he was not informed of this jurisdictional hearing, he received the material from Mr. Gonsalves today and he has not had the opportunity to consult with his client about this matter.

Mr. Fink, Mr. Hellon and Mr. Freund each explained their thought processes in deciding their decisions and discussion ensued.

**ACTION:** Mr. Hellon moved to continue the jurisdictional hearing to provide the County Attorney an opportunity to consult with this client. Mr. Rubin second the motion. The jurisdictional re-hearing will take place on January 21, 2020 at 9:00 a.m. The motion passed unanimously.

**Item 8 – Decision on request to disqualify Commission or Commission Members in Dent Appeal Hearing**

Mr. Fink asked the parties to identify themselves. Kevin Kristick representing Pima County. Mike Tully representing Ms. Dent.

Mr. Kristick raised the question of disqualifying the Commission or commissioners. Mr. Corey stated disqualification is a high bar and he has a series of questions to ask if this issue arises.

Mr. Tully explained they expect a panel that would give them a fair and impartial hearing. Keep it home, keep it simple and stay on schedule.

Mr. Kristick stated the purpose of the letter to see if there were any feelings for a recusal for this hearing. Ms. Dent is a long time employee and has been involved in past hearings.

Mr. Corey was asked to question the commissioners who will hear the appeal of Ms. Dent to eliminate any perceived bias from the commission. Mr. Corey determined there was no reason for disqualification of the selected commissioners.

The Commission recessed for a break at 10:13 a.m. and reconvened at 10:26 a.m.

**Item 9 – Selection of New hearing dates for Nigel Lindley-Dyer**

Mr. Alatorre requested his client's appeal be heard in either March or April. The reason for the request is his expert was not available on the previous dates and his office is waiting for additional reports. He listed some dates he is available. Discussion ensued.

**Item 2 – Recommendations to the BOS regarding possible modifications to the Merit System Commission Rules 4, 8, 12, and 14**

Merit System Rule 4.1 (B)(3), 4.2 (D)(7), 4.2 (D)(10), Selection: Recruitment, Application Process and Administrative Review. Ms. Bohland explained the reason for the change. Discussion ensued.

Merit System Rule 8.1 (B), Promotion, Demotion, Reappointment, Open Range Reappointment, Reassignment and Detail. Ms. Bohland explained the reason for the change. Discussion ensued.

The Commission recessed for a break at 11:13 a.m. and reconvened at 11:26 a.m.

Merit System Rule 12.2 (A), 12.2 (B), Disciplinary and Other Personnel Actions. Ms. Bohland explained the reason for the change. Discussion ensued.

Merit System Rule 14.3 (E), 14.4 (A), Merit System Commission Appeals. Ms. Bohland explained the reason for the change. Discussion ensued.

**Item 3 – Amendment of the Law Enforcement Council Rules IV, XII, and XIII**

Law Enforcement Merit System Rule IV, IV-2, IV-2 (C)(9), IV-13, Announcements, Applications and Examinations. Ms. Bohland explained the reason for the change. Discussion ensued.

Law Enforcement Merit System Rule XII, XII-1 (B), XII-3 (A)(2), XII-3 (B) Disciplinary Actions, Administrative Suspension and Special Observation. Ms. Bohland explained the reason for the change. Discussion ensued.

Law Enforcement Merit System Rule XIII, XIII-4 (C), Grievance System and Appeals. Ms. Bohland explained the reason for the change. Discussion ensued.

**ACTION:** Mr. Hellon moved to table the Merit System Rules and Law Enforcement Rules. Mr. Freund second the motion. Motion passed unanimously.

The Commission recessed for lunch at 12:38 p.m. and reconvened at 1:45 p.m.

**Item – Attorney Contract Modifications**

Mr. Corey submitted counter modifications which was added to the document. Discussion ensued.

**Item – Quarterly meetings and chairmanship of Commission and Council, ARS § 38-1002 (D) and ARS § 11-353**

Discussion regarding quarterly meetings and interpretation of the laws ensued.

**ACTION:** Mr. Hellon moved the Commission accept legal counsel's interpretation of ARS 38-1006 and abide by the provisions of ARS § 38-1006 (B) in that every matter that comes before us involving a matter with respect to Pima County employees we do so sitting as a Merit System Commission. Mr. Rubin second the motion. Upon a roll call vote the motion passed 3-1, with Mr. Fink voting no.

**Item – Election of Commission/Council Chairman and Vice-Chairman**

Mr. Fink informed the members that he does not wish to be the Chairman of the Commission/Council and asked for nominations.

**ACTION:** Mr. Freund nominated Mr. Hellon to be the Chairman of the Merit System Commission/Law Enforcement Council. Mr. Rubin second the motion. Motion passed unanimously.

**ACTION:** Mr. Fink asked for nominations for Vice-Chairman. Mr. Hellon nominated Mr. Freund. Mr. Rubin second the motion. Motion passed unanimously.

Mr. Fink provided the new Chair with copies of ARS 38-847, ARS 38-893, and Pima County Resolution 199569 which adds to the Chair's responsibility for serving on the retirement boards for Public Safety, Department of Corrections, and the County Attorney Investigators Retirement Boards. They meet first Wednesday of every month.

**Item 6 – Agenda notices of lunches**

Mr. Corey stated the lunches would be treated as part of the meetings. He said the wisest thing was to treat the lunches as part of the meeting and let people know they could come to lunch with them. Discussion ensued.

**Item 7 – Preparation of Executive Minutes**

Mr. Fink stated this has been handled by Mr. Corey and Ms. Hernandez. There were some items that needed to be included and were not in the past. Discussion ensued.

**Item 4 – Use of Contracted Hearing Officer(s)**

Ms. Bohland stated there may be more hearings or appeals and if the commission is not inclined to be a Hearing Officer there is an option for the county to contract with a Hearing Officer. This is just an option in the event the appeals are back logged. Currently Hearing Officers are not on contract. Ms. Bohland explained the process. Discussion ensued.

**Item 5 – Ways to garner more timely quorums for hearings, availability of commissioners, etc.**

Mr. Fink stated Ms. Hernandez sends emails to the commission member to obtain their availability for hearings. One member has never responded to her emails. This member attended 2 meetings since he joined, almost a year ago. Discussion ensued and Ms. Bohland volunteered to speak with Mr. Huckleberry about the situation.

**Postscript**

Mr. Freund acknowledge Ms. Hernandez has done a yeoman's job of getting the scheduling done in a more efficient matter. Mr. Fink agreed and she has done a great job with all that has been put on her plate and lately there has been a lot.

**ACTION:** Mr. Hellon made a motion to adjourn the Open Meeting. Mr. Freund seconded the motion. Motion passed unanimously. The Commission adjourned at 3:01 p.m.

The digital recording of the official proceedings and the minutes were prepared by the Recording Secretary.

Minutes approved by /s/ Mike Hellon on May 10, 2022.