



**PIMA COUNTY  
MERIT SYSTEM COMMISSION  
OPEN MEETING MINUTES OF MAY 10, 2022**

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Commission Members Present:

Mike Hellon, Chair  
David Freund, Vice Chair  
Sami Hamed  
Paul Rubin  
Joseph Shelley

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

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|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Donna Aversa  | Attorney for the Commission                                                                                                                           |
| Dan Jurkowitz | Pima County Attorney for the Respondent                                                                                                               |
| Ellen Brown   | Pima County Attorney                                                                                                                                  |
| Sam Brown     | Chief Civil Deputy Pima County Attorney                                                                                                               |
| Laureen Pew   | Pima County Attorney's Office                                                                                                                         |
| Mike Storie   | Attorney for Ruth Acedo; Carlos Delgado; Luis Fletes; Paul Gracia Ramos; Steven Laughlin; Jose Mejia; Joseph Moreno; Jorge Rangel Flores; Duardo Ruiz |
| Jason Parrish | Pima County Human Resources Deputy Director                                                                                                           |
| Cathy Bohland | Pima County Human Resources Director                                                                                                                  |
| Trina Bergen  | Recording Secretary                                                                                                                                   |
| Anthony Perez | Human Resources                                                                                                                                       |

The Open Meeting of the Pima County Merit System Commission was called to order by Mr. Hellon, Chair, at 9:08 a.m.

**Item A. Roll call.**

**Item B. Pledge of Allegiance**

**Item C. Introduction of Donna Aversa.**

**Item D. Approval of Minutes**

- 12-10-2019 Merit System Commission Open Meeting Minutes.  
**ACTION:** Mr. Freund moved to accept the minutes and Mr. Rubin second the motion. Motion passed unanimously.
- 01-09-2020 Merit System Commission Open Meeting Minutes.  
**ACTION:** Mr. Freund moved to approve the minutes and Mr. Hellon second the motion. Motion passed unanimously.
- 01-13-2020 Merit System Commission Open Meeting Minutes.  
**ACTION:** Mr. Rubin moved to approve the minutes and Mr. Freund second the motion. Motion passed unanimously.

Mr. Hellon, read the Opening Statement into the record and asked if either party wished to invoke the Rule of Privilege. The Rule of Privilege was invoked by Mr. Storie Counsel for the Appellants.

Mr. Storie had preliminary matter and stated the Governor signed the bill and it is going through Legislation and will be effective in September. He is asking for a continuance as of September it is not going to allow vaccines mandates by any governmental institution. There will be exceptions but doesn't think they apply to the jail. Discussion ensued.

Mr. Freund stated Mr. Storie's clients have been injured and they would be rehired as new employees, they will not have seniority and no back pay. They will not have a letter of contribution saying they might have two retirement funds or whatever. Mr. Storie stated that is negotiable. Discussion ensued.

Mr. Hellon asked why he doesn't withdraw the appeals. Mr. Storie stated he withdrew the appeals they can't appeal again. Mr. Hellon stated the reason he denied the continuance was to hear what is the authority of the commission. Discussion ensued.

Mr. Jurkowitz stated Mr. Storie prognosis or prediction is possible. The counties policy may change in the future. If the county does change its policy, then those individuals would be eligible for re-hire and ultimately it is better to resolve the situation and getting their jobs back under appropriate conditions. They don't have any objections.

Mr. Storie added there are two legal issues which are 1) there are employees that did nothing and they didn't fill out any forms. Did not apply for exemptions. 2) employees that did apply for religious exemptions.

The commissioners thought Mr. Storie's clients were to be a consolidated hearing, not individual hearings. Discussion ensued and determined they would have individual hearings for his clients.

**ACTION:** Mr. Hamed made a motion to grant Mr. Storie the continuance and grant the individual hearings for all nine appellants. Mr. Rubin second the motion. Discussion ensued.

Ms. Aversa asked if the commission if they would like to go into executive session for legal advice. Mr. Hellon stated no. Mr. Freund stated as the client they could waive the executive session. Mr. Hamed agreed it was at their discretion. Ms. Aversa advised them they would have to take a vote.

**ACTION:** Mr. Freund moved that as a client that we waive any privileges that we might have for receiving legal advice from our attorney and proceed in an open meeting. Mr. Hamed second the motion. Roll call vote taken and motion passed unanimously.

Ms. Aversa stated the agenda has individual listing of the hearings and that is not an issue today. It is a non-issue. They can be taken out of order. The time constraint is an issue. One of the comments that Mr. Hellon made earlier was about the reason for denying the request for a continuance was that Mr. Hellon wanted a discussion as to what the county did and any other legitimate alternatives and wants a discussion in that context going forward.

The commission has authority to look at the appellants' appeal on the merits to determine whether there was a violation of policy and if there was just cause. That is the commission authority. The commission does not have authority to the legitimacy or appropriateness of any county rule. That is not within their purview.

Ms. Aversa they deal with are 'Here's what happen.'" There's a conflict of facts. You reconcile those facts and you make a record of those facts. In that context you determine whether or not there is a violation of policy and then whether or not there was just cause and go from there. You have the ability to do that and to start that process today if you choose. My point is that should not be a factor in influencing your decision going forward.

She stated if the appellants come in and they all lose their appeals. What happens then? That does not affect Mr. Storie's ability to negotiate to have his clients reinstated. If Mr. Storie's appellants all win their appeals, things go forward in that manner.

Ms. Aversa stated the potential there may be different outcome based on different facts and that is an evidentiary matter. Mr. Freund looked at all the appeals and they all say the same thing. "I did not violate the policy and I do not deserve this punishment." and suggested that is highly unlikely that you will come out with different outcomes for the different appeals.

Mr. Freund restated what she said and the commission is to look at the facts of the situation. Make a determination if the employee violated the policy the basically that would be a guide to their decision. The commissions function is simply to determine if they violated the policy.

Ms. Aversa replied it is not the commissions responsibility to determine if the county rules are constitutionally valid or invalid. The appellants have other ways to address that through the courts. Discussion ensued.

Mr. Jurkowitz stated Ms. Aversa covered the issues he would present to the commission. It would be the same for each of the appellant and would be restated for the record with each individual hearing. Mr. Storie stated Mr. Jurkowitz and Ms. Aversa have good arguments and there is possibility of taking this to Superior Court.

Mr. Hellon stated he wanted the commission to be fully acquainted with all the arguments on both sides. Mr. Jurkowitz said that is not the proper vehicle to raise those issues. There is a different way to raise that issue. This commission has limited authority and cannot consider those issues. They are going to be barred from raising that in different situation. This commission does not have jurisdiction to consider it. He does not intend to defend or carry a burden of proof by trying to establish the Board of Supervisor policy was a legal policy. The commission is given a rule and you have to determine if there has been a violation of the rule.

**ACTION:** Mr. Hellon stated a motion was made and second. He asked for a roll call vote for granting the continuance. Motion passed unanimously.

**ACTION:** Mr. Freund made a motion to adjourn the meeting. Mr. Rubin and Mr. Shelley second the motion. Motion passed unanimously. The commission adjourned at 10:08 a.m.

The minutes were prepared by the Recording Secretary. Minutes approved on May 25, 2022.

/s/ Mike Hellon, Chair