

**Judicial Merit Commission – Regular Quarterly Meeting
Tang Conference Room, Law Library, Third Floor
101 West Jefferson, East Court Building
Tuesday, December 4, 2007**

General Session Meeting Minutes

The Judicial Merit Commission met on Tuesday, December 4, 2007 for its regularly scheduled quarterly meeting. The meeting was conducted in the Tang Conference Room located at 101 W. Jefferson, East Court Building, Law Library, 3rd Floor.

Commissioners present were Thomas J. Davis (Chair), Carol Smetana, Harry Kaminsky, Robert Oberstein, and N. Joseph Cayer. Also present were Phillip E. Hanley, Secretary to the Commission, and Billie Berry, Human Resources Specialist.

I. Meeting Convened

The meeting convened at 2:00 p.m. with notice from Commissioner Robert Oberstein that he would be arriving shortly.

II. Approval of the Regular Meeting Minutes

The Chair entertained a motion to approve the minutes of the September 4, 2007 quarterly meeting.

Motion: Commissioner Cayer moved to approve the minutes of the September 4, 2007, General Session as redacted. Commissioner Smetana seconded the motion. The minutes were unanimously approved 4-0.

III. Judicial Merit Commission 2008 Meeting Schedule

The Commission reviewed the proposed meeting schedule for 2008. All members present confirmed their availability and agreed on meeting dates of March 4, June 3, September 9, and December 2. The proposed 2008 meeting schedule was unanimously adopted.

IV. Appeals Pending Hearing/Decision

1. Barbara Lang (Hernandez) v. Juvenile Probation Department

The Chair noted the Lang (Hernandez) appeal has been on the Commission's calendar at least three quarterly meetings and has continued for an inordinate period of time.

Secretary Hanley reported that the hearing was held over a 1½ day period on November 14, 2007, and November 21, 2007. The Court is awaiting a report and decision from the hearing officer which is due by the end of December.

Discussion ensued as to the exact time limit the Hearing Officer has to submit his report at the conclusion of an appeal hearing. Secretary Hanley advised, and it was confirmed by staff, that the hearing officer has 31 days to submit his report.

Secretary Hanley stated he does concur with the Commission's concerns; however, the extensions in this matter were by agreement of the parties due to unforeseen circumstances on both sides, and continuing settlement attempts.

It was suggested that the Court consider establishing a policy to limit the number of days and times a hearing may be extended by mutual consent of the parties. For example, no extension can be more than 15 days, and three extensions would be the maximum, even if the parties agree.

The Commission asked Secretary Hanley to draft a rule to fix limits on time extensions available in an appeal.

The Commission agreed to coordinate on scheduling any Special Meeting needed to timely hear the hearing officer's decision of the pending Lang (Hernandez) appeal.

2. Nikkia Dansby v. Adult Probation Department

Secretary Hanley reported that this is the first appearance of this matter, involving a termination, on the Commission's agenda. It has moved to hearing in a relatively expeditious fashion and is scheduled to be heard on December 18, 2007.

3. Sheldon Payne v. Juvenile Probation

The hearing in this matter was initially scheduled for December 5, 2007, but was rescheduled until December 17, 2007, due to the illness of Judicial Branch Investigator, Peter Marturana, who is scheduled to testify as the lead investigating analyst on behalf of the Court in this matter.

4. Possible New Appeal

Secretary Hanley also reported to the Commission that he was informed shortly before the meeting convened of the possibility of another appeal of a termination, and he is awaiting confirmation of same.

Discussion also ensued as to the procedure when a hearing officer denies an appeal and the employee requests a further review or reconsideration. Would the Commission be asked to convene a special meeting to hear the matter or would it be scheduled for the next general meeting? Secretary Hanley advised that if the hearing officer denied an appeal and the employee requested a further review, the Court would request a special meeting be scheduled in an attempt to expedite the process and to reduce the agenda of the regular scheduled meeting.

To aid its understanding, the Commission asked that when an appeal appears on its agenda the Secretary note parenthetically the nature of the action (e.g., termination or suspension), the date of the discipline imposed, and the scheduled hearing date.

V. Call to the Public

No response occurred.

VI. Future Agenda Items

1. Pending Proposed Changes regarding Classified/Unclassified Employees

The proposed changes are still in the process of being drafted for consideration by the Commission.

2. Fiscal Year Status

Secretary Hanley advised the Commission of some of the difficulties the Court may incur in terms of management of resources for the fiscal year running from July 1, 2007, through June 30, 2008. Discussion ensued and the Secretary was asked to ensure that the policy and provisions for any issue that may come before the Commission is clearly addressed and outlined in the Merit Rules.

Discussion then ensued regarding correspondence forwarded to the Commission by legal counsel. The Commission agreed that when legal issues are discussed or advice of legal counsel is offered during the Commission's meetings, all such discussions belong in Executive Session.

Commissioner Smetana stated she recalled that the Secretary was going to check with the Attorney General's Office regarding a review of the Merit Rules. Commissioner Davis concurred that at the last meeting of the Commission, legal counsel proposed to perform an audit of the Merit Commission Rules. During that discussion, the Commission asked Secretary Hanley to inquire of the Attorney General's Office about its position on reviewing the Merit Rules for their compliance with current law. The Secretary was to report back to the Commission on the Attorney General Office's response.

Secretary Hanley advised he did not have a report for the Commission at this time, but would immediately contact the Attorney General's Office and advise upon receipt of a response.

Lastly, Secretary Hanley provided the Commission with copies of the Open Meetings Law Handbook and statute as requested in the September meeting.

XI. Meeting Adjournment

The Chair entertained a motion to adjourn.

Motion: Commissioner Smetana moved to adjourn the meeting. The motion was seconded by Commissioner Kaminsky. The motion was unanimously approved. The meeting was adjourned at approximately 2:50 p.m.

The Commission held no Executive Session at this meeting.

Respectfully submitted,

Billie J. Berry
Staff to the Commission

For

Phillip E. Hanley
Secretary to the Commission

**Next Meeting: Tuesday, March 4, 2008 @ 2:00 p.m.
 in the Tang Conference Room**