PUBLIC MEETING MINUTES

March 15, 2018

California Department of Tax & Fee Administration
505 North Brand Boulevard, Suite 700 (Room 705)
Glendale, CA 91203

Chair Gregersen called the meeting to order at 10:00 a.m.

Members Present

Mark C. Gregersen, Chair
Eric R. Banks, Member
Priscilla S. Winslow, Member
Erich W. Shiners, Member

Staff Present

J. Felix De La Torre, General Counsel
Shawn Cloughesy, Chief Administrative Law Judge
Mary Ann Aguayo, Chief Administrative Officer
Gerald Fecher, Conciliator, on behalf of Loretta van der Pol, Division Chief,
State Mediation & Conciliation Service (Excused)

Call to Order

After establishing that a quorum had been reached, Chair Gregersen called the meeting to order for a return to the open session of the March 14, 2018 Public Meeting. He reported that the Board met in continuous closed session to deliberate the pending cases on the Board's docket, pending requests for injunctive relief, pending litigation and personnel matters, as appropriate.

Motion: Motion by Member Banks and seconded by Member Winslow, to close the March 14, 2018 Public Meeting.

Ayes: Gregersen, Banks, Winslow, and Shiners.
Motion Adopted – 4 to 0.

Chair Gregersen adjourned the March 14, 2018 Public Meeting. He then opened and called to order the March 15, 2018 Public Meeting.

Comments from Public Participants

None.

Unfinished/Old Business

Today's Public Meeting was convened for review, discussion, constituent comments and possible action by the Board on the Report regarding PERB's Case Processing Efficiency Initiative.

Appearances before the Board are as follows:

Jesse Rios, Representative, Journal Technologies—company hired to build and replace PERB's case management system

Adrianna Guzman, Attorney, Liebert Cassidy Whitmore—stated that firm had submitted written comments

Kevin Downes, Representative, California State University

The recording of today's Public Meeting was officially transcribed. (Please see the attached.)

Motion: Motion by Member Winslow and seconded by Member Banks that the PERB Division Managers prioritize the recommendations in the Report based on comments received, both written and from appearances at the Public Meetings (March 14 and 15, 2018). Member Banks added that the Division Managers also be asked to identify which recommendations have already been initiated, those that can be implemented within PERB's current budget, and then those that would require additional funding.

Ayes: Gregersen, Banks, Winslow, and Shiners.
Motion Adopted – 4 to 0.

New Business

None.

General Discussion

Chair Gregersen announced that there being no further business, it would be appropriate to recess the meeting to continuous closed session and that the Board would meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through April 12, 2018, when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board. The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. Code, sec. 11126(c)(3)), personnel (Gov. Code, sec. 11126(a)), pending litigation (Gov. Code,

sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code, sec. 11126(e)(2)(c)).

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

Ayes: Gregersen, Banks, Winslow, and Shiners.
Motion Adopted – 4 to 0.

Respectfully submitted,

_____
Regina Keith, Administrative Assistant

APPROVED AT THE PUBLIC MEETING OF:

_____

_____
Mark C. Gregersen, Chair

BEFORE THE

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

BOARD MEETING

CASE PROCESSING EFFICIENCY INITIATIVE

California Department of Tax & Fee Administration
505 North Brand Boulevard, Suite 700 (Room 705)
Glendale, California

MARCH 15, 2018

10:00 A.M.

BEFORE: MARK C. GREGERSEN, Chairperson
ERIC R. BANKS, Board Member
PRISCILLA S. WINSLOW, Board Member
ERICH W. SHINERS, Board Member

Wendy Dippold, Transcriber, Capitol Electronic Reporting

A P P E A R A N C E S

EXECUTIVE STAFF

MARY ANN AGUAYO, Chief Administrative Officer

FELIX DE LA TORRE, General Counsel

SHAWN CLOUGHESY, Chief Administrative Law Judge

Also Present:

GERALD FECHER, Mediator, SMCS

REGINA KEITH, Administrative Assistant, PERB

ARTHUR KRANTZ, Newly Appointed Board Member, PERB

I N D E X

P R O C E E D I N G S

MARCH 15, 2018 GLENDALE, CALIFORNIA 10:00 A.M.

CHAIRPERSON GREGERSEN: I will call the meeting of the Public Employment Relations Board to order at ten o'clock. And before we begin, I'd like to recognize the newest Board Member, Erich Shiners, is with us this morning.

So, will the Clerk please call the role.

MS. KEITH: Chair Gregersen.

CHAIRPERSON GREGERSEN: Present.

MS. KEITH: Member Banks.

MEMBER BANKS: Present.

MS. KEITH: Member Winslow.

MEMBER WINSLOW: Present.

MS. KEITH: Member Shiners.

MEMBER SHINERS: Present.

CHAIRPERSON GREGERSEN: Will the Clerk please note the Executive Staff present at today's meeting. Thank you. We are now returning to --

[Phone Interruption]

ADMINISTRATIVE LAW JUDGE CLOUGHESY: Are you guys phoning in for an informal? We'll talk to you later.

CHAIRPERSON GREGERSEN: Okay, so the phone is off?

ADMINISTRATIVE LAW JUDGE CLOUGHESY: The phone is off.

CHAIRPERSON GREGERSEN: Okay, thanks. Sorry. I apologize about that. We were trying to, not conference in, but to let staff who couldn't be present at today's meeting listen to the proceedings, but we'll have to work on that plan for a future meeting, work some of he bugs out.

But so now we are returning to an open session of yesterday's March 14, 2018 meeting of the Board. We've met in continuous closed session to deliberate on cases pending on the Board's docket. Is there a motion to close yesterday's March 14, 2018 public meeting?

MEMBER BANKS: So moved.

MEMBER WINSLOW: Second.

CHAIRPERSON GREGERSEN: It's been moved and seconded. All in favor?

MEMBER WINSLOW: Aye.

CHAIRPERSON GREGERSEN: Aye.

MEMBER BANKS: Aye.

MEMBER SHINERS: Aye.

CHAIRPERSON GREGERSEN: Opposed? Hearing no opposition, the motion passes.

I'm now opening the meeting of March 15th,

2018. So, I'd like to remind everybody who's in attendance, please sign in.

And Regina, do we have the blue speaker cards?

MS. KEITH: We do.

CHAIRPERSON GREGERSEN: Okay. And if you wish to speak with the Board, either on a matter not on the agenda or on the Case Processing Initiative, please fill out one of the blue cards.

So, at this time, we're going to have general comments from the public participants. This is the opportunity for the public to address the Board on issues not scheduled on today's agenda.

As I just mentioned, the public participation regarding the PERB Case Processing Initiative will be held a few minutes later in the meeting. The Board cannot act on items not scheduled on the agenda, but may refer those matters to staff for review and possible Board action at a future publicly noticed meeting.

Are there any speakers at this time that wish to speak on topics not related -- not on our agenda?

Seeing none, so now we're moving to unfinished business regarding the Case Processing Initiative, which is to review and discuss the report of the PERB Case Processing Initiative, including possible

action by the Board.

Are there any -- Regina, did we get any speakers? Is there anybody that wishes to speak on the PERB Case Processing Initiative? It was a study that was commissioned by this Board about ten months ago. The consultants produced a report that was included -- has been included on our website. And the purpose of today's meeting is to take any public comment regarding that report. So, does anybody wish to make a comment?

Seeing none, I'll move and put that into the hands of the Board in terms of how we proceed. I think yesterday we had generally talked about how to proceed and that was really kind of tentative based upon our meeting today. But the direction that the Board gave yesterday, tentative direction, was to have the management group composed of the division heads to go through, look at the report, and come up with a recommended priority as well as a more detailed costing of those items that are indicated to be cost sensitive.

MEMBER WINSLOW: And I think in light of the comments that we received yesterday and in writing, that the managers would take into account the comments, or is that our job? I don't know.

CHAIRPERSON GREGERSEN: I'm not sure.

MEMBER WINSLOW: Okay.

CHAIRPERSON GREGERSEN: What's the Board's pleasure? I mean, I --

MEMBER WINSLOW: I think that -- I'm sorry, go ahead.

CHAIRPERSON GREGERSEN: No, go ahead.

MEMBER WINSLOW: I think that taking into account the comments from the public is something that both management and the Board can and should do.

CHAIRPERSON GREGERSEN: Okay.

MEMBER WINSLOW: It isn't relegated to one division.

CHAIRPERSON GREGERSEN: Okay.

MEMBER BANKS: I still say we're -- Obviously anything that we can do that doesn't have a dollar figure attached to it, but I'm -- I mean, there are obviously things in the efficiency report that I am more interested in, and some of them have dollar amounts to them. So, not fully knowing what our budget is going to be for next year or what our available resources are, it's really hard to make a determination based on that.

In further thinking about it last night and again this morning, it wouldn't be bad for us to decide what of the items that have a monetary amount based to them would be our priorities. And how we communicate that, I don't know if we do that publicly, if we do that

at the next meeting, if we do that through some kind of a written correspondence from our office, or what we do so it's generated.

But I think we, again, what I said yesterday, we need to start with what's free or what we're already paying for or have staff that are already doing it that we could hopefully streamline some of the processes of it.

CHAIRPERSON GREGERSEN: Well, I mean, my thought on cost is, there may be some good ideas that have some cost.

MEMBER BANKS: Right.

CHAIRPERSON GREGERSEN: Which I guess I look at cost as kind of a hurdle, something that you need to get over in order to implement. And just because something might have considerable cost, for example, I don't think we should discard that. I think that would become more of a long-term project and potentially be the subject of a budget-change proposal to request additional funds at some future date from -- through the Department of Finance. And that's the type of thing that I think that they look at in terms of process improvement in order to make state government more effective and efficient, and one-time costs that would set that up. And I really think that, in setting the

priority, at least maybe initially, that we, you know, be concerned about it.

I mean, the free ones or the ones that don't cost anything make sense. But just because something is going to have a cost associated with it, I don't think we should discard it. I think it should be in the mix and then it becomes part of our strategy in terms of, how do we deal with that and move it forward.

MEMBER BANKS: I wasn't saying toss anything out because it had a high dollar amount, you know. I was saying, we can look at what has dollar amounts that we care about, and then if there are things that are clearly within our budget that hit our priority level or our list of priorities, we do those first. And obviously if there is something that costs us 250 thousand dollars to implement and we only have 100 thousand dollars to do something with, then we should look at the items that fall within our budgetary -- that are not constrained by the budget.

MS. AGUAYO: I'm sorry, I have a suggestion. We have Journal Technologies in the audience and I thought it would be beneficial for you to hear what they're doing for us with our CMS replacement project. It has a lot to do with a lot of the suggestions that have been made.

CHAIRPERSON GREGERSEN: Did you want someone to make comments to the Board, Mary Ann?

MS. AGUAYO: Yes.

CHAIRPERSON GREGERSEN: Okay, that's fine. Any objections from the Board?

MEMBER WINSLOW: No.

MEMBER BANKS: No.

MEMBER SHINERS: No.

CHAIRPERSON GREGERSEN: Please.

Jesse Rios

MR. RIOS: Good morning, everyone. Good morning, Board. My name is Jesse Rios, and I'm with the Journal Technologies out here in L.A. And we're actually working with the PERB organization and building a new case management system. So the topic of discussion is streamlining business processes and making it more cost-efficient, moving forward with them.

So, we're installing a new case management system that will streamline all the different processes that you currently have. You know, we have some regional offices that might be doing different things at different offices. So we're trying to standardize all those different types of practices, and moving away from a paper-intensive practice that they currently have and moving to electronic, giving the public portal, which is

a public-facing website that yourselves, lawyers, and the public, the general constituents can go to and file a new UPC or request a petition or anything like that.

They'll be able to access it through the browser, any browser, and file their UPC or file a petition. And then from there, be able to view additional case information. It can look up their electronic case file and submit new documents, add to that, and any other party within that UPC or petition that's filing additional documents, they'll be able to retrieve it and download it as long as they're a participating party in the case -- on that case.

So, when we move to an electronic format, things happen a lot quicker. Data is available in real time. Users can search the calendar, download documents, view past decisions, and things like that, instead of requesting it from PERB, and PERB has to manually print things out and then mail it, you know. We're trying to go away from the US mail and do everything electronic, get everything efiled.

You'll still have the option to get things through the mail if that's still how you want to move forward with, but you know, when we start putting in our system, which is called eCourt, it tends to streamline the process, makes things a lot quicker as far as data

entry, working with the ALJs, having their decisions.

And writing up decisions become a lot quicker process. They have access to the case right there on their browser. They can work remotely. So when they have hearings at different locations, they'll be able to access the system, have everything right in front of them. And so it's a really good move that PERB has gone to moving forward in the next -- in the coming months. You know, we plan to roll out in the summer of 2018.

And the thing with eCourt is, it's a configurable system, meaning as we initially roll out eCourt, we'll assess the system in a few months and make necessary changes that are either -- that we have to tweak or make updates to. So we're always constantly evolving the system.

Right now, their current system, whatever they have is pretty much what they're stuck with. With eCourt, we'll be able to modify it and change it based off your guys's feedback, based on staff feedback. So, it's a really good deal.

CHAIRPERSON GREGERSEN: Thank you for your comments. Any questions on the part of the Board?

Okay, thank you.

MR. RIOS: Thank you.

CHAIRPERSON GREGERSEN: I notice that some

additional people have arrived. And so let's go back and -- I notice you signing in. If you haven't signed in, please sign in. And if you'd like to speak and address the PERB Case Processing Initiative, the purpose of today's meeting, and the topic that we're at right now is to take public comment regarding the Case Processing Initiative report. And if you'd like to speak, please fill out a blue card and give it to Regina and then we'll call on you.

Would anybody like to speak?

Adrianna Guzman

MS. GUZMAN: We submitted a public comments.

CHAIRPERSON GREGERSEN: Written comments?

MS. GUZMAN: Yes. Adrianna Guzman with Liebert Cassidy Whitmore.

CHAIRPERSON GREGERSEN: Okay, good, thank you.

MR. DOWNES: I'm Kevin Downes from the California State University. I apologize for being late. I went to the Glendale office.

We did submit some --

CHAIRPERSON GREGERSEN: If you're going to make comments, please step up to the microphone so that we can get your comments recorded. And thank you for coming this morning.

Kevin Downes

MR. DOWNES: Mr. Chairman, I was just saying, I'm Kevin Downes from the California State University. We submitted written comments and there's really no need for me to repeat those here, unless you'd like me to.

CHAIRPERSON GREGERSEN: Okay.

MR. DOWNES: But I would like to thank you for having this process and allowing us to have our input. We very much appreciate it.

MEMBER BANKS: Can I ask something. If there were actual things that were in your written documents that you would like to kind of highlight for us, I mean, this is an opportunity for us to also ask clarifying questions. So, we can go back through here and read your written comments. Or if there is something you think is really important, I would love to hear it so I can actually kind of get that sense of what's the most important issues to your organizations or your law firms.

MR. DOWNES: Well, one of the suggestions we made, which it appears to me that PERB Regional Office has already adopted is, we have 23 campuses throughout the state. We're often here on various charges. And we did suggest that a naming convention be used whereby when we are the respondent, that they would indicate the

respondent, not only as the Trustees of California State University, but also, in parenthesis, the campus. I think that would help everyone to identify these cases, especially if they become any kind of precedent historically later on.

We really don't -- That was really our major issue, to tell you the truth.

CHAIRPERSON GREGERSEN: Any follow-up questions?

MEMBER WINSLOW: I have a question, Mr. Downes, in your comments on page four, your written comments, you're addressing some of the suggestions about settlement conferences, you know. And I was surprised -- Well, I'm sorry, forget my editorial.

MR. DOWNES: No, that's okay.

MEMBER WINSLOW: I was curious, you were opposed to many recommendations like asking the parties to meet with each other before an informal conference starts. Having voluntary attorneys act as informal judges, you were vehemently opposed to that. Establish a mechanism to ensure that both parties have someone in authority to settle at the settlement conference, vehemently -- or not vehemently, but just opposed to it. I was curious as to why.

MR. DOWNES: Okay. Well, let me start with

the volunteer attorneys.

MEMBER WINSLOW: Okay.

MR. DOWNES: We felt it was very important to have people who are knowledgeable about labor law and PERB law. And the problem with having volunteer attorneys is, there's no guarantee that that's going to happen.

As for preparation, it is kind of refreshing to be able to come to a PERB settlement conference. We always bring the people from our campus who are most directly affected. And as a practical matter, we always have authority to settle or it's a phone call away.

We don't want to get into a situation where we have to bring, you know, all kinds of people who physically really don't need to be there.

Also, we want to avoid a situation such as what's happened at some other agencies where you make the settlement process so formalistic with required statements and required meeting beforehand, that it just becomes much more time-consuming.

We feel that, you know, we're fairly efficient at the way we do this. We come in good faith to settle. We're dealing, for the most part, with union representatives who we work with on a regular basis. And we want the system to be effective. We think, in

fact, we think it's very important that there be settlement conferences and that people take them seriously. And we always, you know, appear for them.

But we don't want to make them so formalistic and so burdensome that -- I could name some other agencies that, you know, have -- it has almost gotten ossified. If we have so many requirements, it's almost like you have to prepare your whole case before you get there.

And I'm not sure that for, you know, an Agency that limited resources as you do, and frankly, as we do, that that's the best approach as long as people are coming in good faith to try to resolve things.

And you know, we all know that, well, at least in labor relations, most things get resolved. And of course the Board sees the cases that --

MEMBER WINSLOW: Right, that don't.

MR. DOWNES: -- didn't get resolved. So, have I answered --

MEMBER WINSLOW: Yes, thank you.

MR. DOWNES: Okay, thank you.

CHAIRPERSON GREGERSEN: Any more follow-up questions?

MEMBER SHINERS: Mr. Downes, I just had a few.

MR. DOWNES: Sure.

MEMBER SHINERS: And I certainly hear you about not wanting to make the process more formal. We actually heard that from many of the people who gave comments yesterday. But I notice also opposition from CSU on some of the suggestions about the initial process of the charge coming in and then going to the complaint stage, about streamlining that process. And there was a suggestion, I think, about the charging party submitting a proposed complaint. And there's a series of recommendations.

I'm just curious why CSU is opposed to those particular recommendations and if you have any other suggestions about streamlining the initial investigation process.

MR. DOWNES: Sure. Well, if the Board may recall, you issued a decision very recently involving unalleged allegations. And from our point of view, it's very important that we know when a complaint is issued, we can look at the four corners of the complaint and know exactly what the charges are and exactly what we have to respond to.

And you know, parenthetically, we're obviously very pleased with the approach the Board took on that issue. But the idea of having our opposing

party help write the complaint I think was something that we kind of viscerally oppose. I think it's very important. They get to write the charge. They get to state what the facts are. Then I think that it's very important that the Office of General Counsel get to look at that and decide where there's a prima facie case and where there isn't.

And to us, the content of the complaint is just very important. And we feel that if a complaint is going to be issued, it should be issued by, you know, the PERB counsel and not with the input of the parties, who get to, after all, they've written the charge.

That reminds me of one other thing, and I don't know if we're going to get very far on this. But from time to time, the Board or the General Counsel issues warning letters to unions. Naturally, as a respondent we would love to see those warning letters.

Now, I understand that there are pros and cons on both sides of the issue. But you know, from someone who comes from a civil litigation background, the idea of essentially the court communicating with one party and saying, well, this is what's wrong with your complaint, here's how you clean it up, that's problematic. And so we would like to see the warning letters when they're issued as a party to the case.

CHAIRPERSON GREGERSEN: Thank you. Any further follow-up questions? Thank you very much.

MR. DOWNES: Thank you very much.

CHAIRPERSON GREGERSEN: Anybody else wish to make public comment to the Board about its Case Processing Initiative, please step forward to the microphone.

Seeing no other interest in speaking, we'll go back to the Board in terms of direction. Maybe since we've discussed that, that it would be appropriate for somebody to make a motion in terms of the direction to staff the things that you'd like them to do and consider in coming back with their recommendations. I think that might be appropriate.

MEMBER WINSLOW: Well, I --

MEMBER BANKS: I would support that motion.

MEMBER SHINERS: Are you making one?

MEMBER BANKS: I'll let Priscilla do it.

MEMBER WINSLOW: I will move --

CHAIRPERSON GREGERSEN: There you go. Thank you.

MEMBER WINSLOW: -- that we direct our management staff to prepare a report based on the comments that we have received both today and yesterday, and based on the initial Case Processing Efficiency

Initiative report that was produced a few weeks ago. And prioritize the recommendations that they would make to the Board based on that data. Make a report to us that we would then consider and deliberate in our next Board meeting or shortly there -- I mean, in a Board meeting to be determined.

CHAIRPERSON GREGERSEN: Okay. That's the motion. Is there a second?

MEMBER BANKS: Could I make a -- could we clarify, give a little more direction. There's obviously things that we can do now and things that would actually cost, we'd have to like actually do a deeper analysis on.

MEMBER WINSLOW: Yes.

MEMBER BANKS: Because I'm interested in hearing them -- I know there's a lot of asterisks on this, too, that things are in process. And we only get to learn about what's in process at public meetings because we're not allowed to have sidebar conversations with our staff around these things.

So, in doing that, when they're making the recommendation, I guess if they could actually break it into what we can actually do now with the resources we have or what's already in process to be completed, and then what we would like to do if we had more money.

MEMBER WINSLOW: I accept that as a friendly amendment on my motion.

MEMBER BANKS: All right, thank you.

CHAIRPERSON GREGERSEN: So, there's been a motion --

MEMBER BANKS: And I'll second it.

CHAIRPERSON GREGERSEN: Seconded, all in favor?

MEMBER BANKS: Aye.

MEMBER SHINERS: Aye.

MEMBER WINSLOW: Aye

CHAIRPERSON GREGERSEN: Opposed? Hearing no opposition, motion passes.

Let me go back to the conclusion of the meeting. So, there being no further business, is there any other business? Any other comments to the Board?

No further business, this meeting is recessed to continuous closed session. The Board will meet in continuous closed session each business day beginning immediately upon the recess of the open portion of the meeting through April 12th, 2018, when the Board will reconvene in Room 103 at the Headquarters Office of PERB in Sacramento. The purpose of the closed sessions will be to deliberate on cases listed on the Board's docket to consider personnel matters, pending litigation, and

any pending requests for injunctive relief.

Do I hear a motion to recess to closed session?

MEMBER SHINERS: So moved.

MEMBER BANKS: Second.

CHAIRPERSON GREGERSEN: It's been moved and seconded. All in favor, say aye.

MEMBER WINSLOW: Aye.

MEMBER SHINERS: Aye.

MEMBER BANKS: Aye.

CHAIRPERSON GREGERSEN: Opposed? Hearing no opposition, the motion is adopted and the public meeting is recessed to continuous closed session.

Thank you very much for showing up and attending this meeting.

(Thereupon, the public meeting was adjourned.)

--o0o--

* * * * * * * * * * *

* * * * * * * * * * *

* * * * * * * * * * *

CERTIFICATE OF TRANSCRIPT

I, Wendy Dippold, as the Official Transcriber, hereby certify that the attached proceedings before the Public Employment Relations Board,

BOARD MEETING

CASE PROCESSING EFFICIENCY INITIATIVE

Public Employment Relations Board
Headquarters Office
1031 18th Street, Room 103
Sacramento, California

MARCH 15, 2018

10:00 A.M.

were held as herein appears and that this is the original transcript thereof and that the statements that appear in this transcript were transcribed by me to the best of my ability.

I further certify that this transcript is a true, complete, and accurate record of the recording provided for transcription in the above-entitled proceeding.

Wendy Dippold
March 18, 2018
Capitol Electronic Reporting
(916) 967-6811