

**ADVISORY COUNCIL MEETING 9-29-2021  
VIA WEB EX DUE TO COVID 19**

**MEETING DATE:** TUESDAY, DECEMBER 14, 2021

**TIME:** 9:00 A.M.

**LOCATION:** VIA WEB EX VIDEOCONFERENCE DUE TO COVID

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Advisory Council Members Present: Chair, Jay Siegel, Jodi Ross, Kate Shea, Will Evans, Alfred Gray, Michelle Heffernan and Bryan McMahon.

Ex Officio Members: Philip T. Roberts, Director, Marjorie Wittner, Chair.

Other participants: Jillian Bertrand, Chief Counsel and Kimberly Eustace, Administrative Assistant.

Advisory Council Members Absent: Nicholas Anastasopoulos, Denise Casey, Sheryl Pace-Webb, Lynn Alexis and Maria O'Brien.

**9:39 a.m. the meeting begins with a complete quorum.**

Director Roberts hands over the meeting to Chair Jay Siegel, who asks the Council to accept the minutes from last meeting September 29, 2021. Kate Shea and Jay Siegel move to accept the minutes from September 29, 2021. No objection and the minutes are approved.

Director Roberts: First on the agenda, the CERB Member vacancy, the agency posted the job opening and description today on the Lawyers Weekly web site and the Massachusetts Municipal web site, with a preference given to those who apply before January 14, 2022. In the past, the Advisory Council has set up a sub-committee to review and recommend applicants to the Advisory Council. The sub-committee is a public body and must comply with open meeting law. We will need one neutral, one labor and one management member. After discussion amongst the Advisory Committee members, Jay Siegel volunteered as the Neutral, Kate Shea volunteered as the Labor and Alfred Gray volunteered as the Management member. The sub-committee agrees to meet Tuesday January 25, 2022, at 2:00 pm via WebEx to discuss the applicants. The Advisory Committee will have a short meeting on Wednesday, February 2, 2022, at 11:00 a.m. to review the recommendations, the interview questions and the screening of the applicants. Lastly, the Full Advisory Council Meeting to conduct interviews will be Thursday, March 3, 2022, at 11:00 a.m. CERB Chair Marjorie Wittner asked that people review the writing samples thoroughly as this is a huge part of the job.

Director Roberts: Second on the agenda are the Regulations. There has been one change to the proposed changes since our last meeting and it concerns appeals of written majority authorization petitions. The written majority process was intended to provide a quick certification where a written majority is found. When a majority of the proposed bargaining unit has signed written majority cards, not counting the cards signed by employee in positions that the employer challenges and claims are not in the unit, the unit is certified and the challenged positions are sorted out later through the

reinvestigation process. This is not a general right of appeal, but a unit clarification process. The language we had proposed was intended to clarify that there is no general appeal right but instead of clarifying matters, it seemed to further confuse matters and so we have deleted it.

In discussing the proposed changes with the Secretariat, we were asked to review our regulations to see if there were any redundant or unnecessary regulations. One obvious candidate in our regulations concerning agency fees. After the *Janus* decision, there are no agency fees and we have not had any agency fee cases filed pursuant to this part of the regs. I don't see any reason to keep this language in place, any suggestions? Kate Shea, I don't think we gain anything by keeping the agency fee regs there. Marjorie Wittner, maybe keep for housekeeping reasons, we could delete these regulations, referring to *Janus* but keep the numbers as place holders. Phil Roberts I am inclined to put the deletion of these regs in our proposed changes.

Third on the agenda, in-person hearings. The DLR is currently scheduled to resume in-person hearings in January. I will consider the advice from the Advisory Council members on this subject. Jay Seigel, it is still too dangerous, and not necessary, Al Gray, although I see the value of in-person hearings, I agree with Jay that it is too soon. Will Evans said he had an in-person proceeding because it was with the same people as the previous hearing date that was held in person and throughout the hearing and we socially distanced, but once they started to bring in new witnesses it became too risky. Michelle Heffernan said Civil Service is still remote and DIA has done some in person proceedings, however I believe the proceedings should stay remote. Bryan McMahon - I agree with staying virtual. Kate Shea - until the CDC has the data that its safe I think we should all stay remote. Phil Roberts, I appreciate all your input and I will take this into consideration. I think we will pause the in-person hearings scheduled for January-March. Kate Shea – what about cases where the parties request an in-person hearing? The DLR has informed parties with hearings scheduled for November-December that we could hold them in person if all the parties agreed to it, but so far no one has asked. We can continue to do this. Also, we have worked out the bugs in the system and we can have witnesses participate remotely even if the hearing itself is held in person.

Marjorie Wittner, I have a new intern starting next month, she will be working on updating the Green Book. If there is any input you have for the Green Book let me know.

10:30 am. Jay Seigel entertained a motion to adjourn the meeting. The motion was made and seconded and the meeting was adjourned.