

**CITY OF RICHMOND, CA  
HUMAN RESOURCES MANAGEMENT DEPT.**

PERSONNEL BOARD  
REGULAR MEETING

CITY COUNCIL CHAMBERS  
440 CIVIC CENTER PLAZA  
RICHMOND, CA 94804

**JUNE 27, 2013  
MINUTES**

The meeting was called to order by Vice Chairperson Brown at 5:03 p.m.

**1. ROLL CALL:**

Present: Elaine Merriweather, Chair  
David A. Brown, Vice Chair  
Vicki Winston  
McKinley Williams  
Yvonne Nair

Absent: None

**2. APPROVAL OF MINUTES: None**

**3. PUBLIC COMMENT:**

Stacie Plummer: Referred to the Charter and the Human Resources Director's duties which include control of expenditures, and spoke of the expensive hiring of outside attorneys that she feels is excessive and should be impartial.

Jackie Thompson: Stated Kathleen Sullivan and herself, along with the co-partnership with the HRHRC would like to invite the Personnel Board to join them in a Commission, Board and Committee Leadership Workshop. The next workshop will be held the second Wednesday in August and participants asked that it be extended from 5 to 8pm.

**4. COMMUNICATIONS:**

- a) Discussion and clarification of charter language Article XIII Sec. 6, 7, and 8 (Chair member Merriweather)

Pamela Hampton: Said she previously submitted her concerns and is grateful to see progress. The word "shall" as applicable to rules and laws indicate that something

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must happen or occur or an obligation. She asked when discussing Item 4 to keep the definition of “shall” close and in mind.

Stacie Plummer: The City Charter grants supreme authority over municipal affairs, and voters exercise a greater degree of local control. Violations of the Charter are a misdemeanor subject to fines and imprisonment. The City’s Charter creates the City Council and Personnel Board. She asked the Board to exercise the powers and duties granted by the Charter.

Chair Merriweather suggested holding discussion under Section 7 because of concerns that the Board may have violated the Charter. On March 11<sup>th</sup> they held two hearings. Under Article XIII, Section 7f, it talks about the entire Board should have voted on the appeal and this was the concern. She asked what constitutes an entire Board. Also, there is nothing in the Charter that addresses a split vote and the Board should hold discussion on this. They are all new members of the Board and were not given any training about the process and protocols.

Lisa Stephenson, Acting Human Resources Management Director, said since her tenure, when it states a majority vote of the entire Board, this is 5 members and a majority is 3. There is nothing that requires that all 5 members hear the hearing but that 3 must vote the same for the matter to be acted on. There were several different grievance hearings with less than 5 members present. Boardmember Winston stated that in order for action to be taken, 3 of 5 members must be present. Lisa clarified that if it is a disciplinary matter the burden is on the employer to prove its case. Therefore they must prevail by a vote of 3-0 or better. If the grievance is a contract interpretation case, the burden is on the union. Therefore, the union must prevail by a vote of 3-0. At the hearing, 2 votes were received and this is why they did not prevail. This is a standard practice.

Bruce Soublet, Assistant City Attorney, noted that often the Council will start a meeting with less than 7 members as long as 4 members are present. As long as they have a majority of the Council all 4 would have to vote to move an item, despite the fact that the other 3 members were not present. The fact that 5 members were not present does not stop the Board from conducting its business. If the vote had been 3-1 or 3-0, the employee would have carried her burden, but because it was 2-2 and the burden was on the union, the union did not prevail.

Mr. Soublet referred to Section 7; the first sentence which states, “to hear the employee in the classified service upon his/her request who has been demoted, suspended, dismissed or reduced in pay.” He said these are the sorts of things the Board would be hearing under 7a.

Boardmember Winston said under Section 7, the reason she asked for Item C and D is because she did not find a vehicle to get these questions addressed because she asked for things to be put on and she was told she could not unless it was an item staff had brought to the Board. She would like to discuss B and C as well, and the entire issue of whether they can request a new investigation for staff to look into and report back to the Board. In her reading of this, it states “The Personnel Board shall have power and it shall be its duty to make such inquiries and

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investigations as it may deem warranted regarding the administration and effective provision....and to make such recommendations that the City Manager or the Council as is directed and as may be indicated by the circumstances” which she said is very broad. Mr. Soublet reminded Ms. Winston that the limiting section of this Article is the first sentence, and Section 7A is the overriding principle for the entire Article.

Vice Chair Brown disagreed and said Section 7 contains a variety of different sources of jurisdiction of the Personnel Board ranging through G. H is an empowering section, but “to advise the City Manager on all matters of policy regarding administration of the personnel system” may have nothing to do with a request, demotion, suspension or dismissal. So with all due respect, he said he thinks Mr. Soublet is reading the section narrowly.

Boardmember Winston said one of the reasons the Board has public comment is to hear from citizens and employees to talk about personnel-related issues as it impacts them or others. She does not want to discuss it at the time when they bring it up, but if it becomes a pattern or the Board is hearing the same thing over and over again, to ignore it and not be able to ask or direct staff to look into whether it is a problem, goes against Section 7. She feels that in reading the language, she sees each one as not under A as an umbrella. If it were, it would be Section 7 and under it, all the other things would fall. She does not agree with Mr. Soublet’s interpretation and the Board has a duty to make inquiries and investigations on all matters of policy regarding the administration of the personnel system, which may be indicated by circumstances. There have been many circumstances and she is frustrated that there is nowhere for her to ask staff to place something on an agenda regarding a matter. Now that she sees that Communications is the area, she knows where she can place her concerns and questions.

Chair Merriweather said she agrees and said the Board is in place to do its duty. Several times they have been told they cannot ask questions and she wanted to clarify that while the Brown Act does not allow discussion or action or items not on the agenda, it does allow members of this body or its staff to briefly respond to comments or questions from members of the public. Boardmember Winston said under public comment this is separate and this has happened which is allowable.

Ms. Stephenson added that the Personnel Board can take the Brown Act training and she will follow up with the City Clerk on the status of this. Boardmember Winston understood that the Brown Act is in place for all public bodies, including the Personnel Board, and while serving on other boards if she did not understand what somebody said in public comment, she could ask a clarifying question unlike current practice with the Personnel Board.

Vice Chair Brown said some members of the Board are telling Ms. Stephenson and Mr. Soublet that they view their obligation to be independent; to take into consideration staff’s advice and recommendations but to make independent judgment about the matters brought to the Board and about affirmatively reaching out and making inquiry or investigation into matters that cause the Board concern. He thinks perhaps the most productive thing to do would be to take from this discussion that this Board will be an independent Board and will make such inquiry and

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investigation as under the City Charter, as they are empowered or required to do. He does not know what the history of this Board's conduct has been, but he is not now nor has he ever been a rubber stamp for anybody. If matters come to his attention and seem to fall within the subsection of Section 7, they will bear looking into. As a matter of policy, it might be productive for staff to understand where the direction of this board is going under the Charter.

Chair Merriweather asked members if they had anything else under Section 7.

Vice Chair Brown said Section 8 is directed to the Director of Personnel and not the Board. His opinion would be to move on. Boardmember Winston agreed and said her concerns have been voiced by the Vice Chair.

Boardmember Williams questioned section K about the annual reports to the Personnel Board. He asked if these are public record and does the Board have access to those. Ms. Stephenson said she has never seen such a report. It does say they will be issued at the request of the Personnel Board. It is possible that the previous Board has never requested them and she can check back in the history of what has been done. Mr. Soublet said there are two parts of that section and since the first part deals with the duties of the Personnel Director, it states "as such recommendation that he may deem desirable." It may be that the prior director has never made those reports. It also does say that if such reports are made, they will be public records. Vice Chair Brown said it also authorizes the Personnel Board to make a request. Boardmember Winston said if they start to see a pattern or concerns about something going on in the City, the Board can ask for such a report on the number of promotions, re-classifications, etc. and Ms. Stephenson agreed.

### b) Consider Scheduling of a Personnel Board Retreat (Chair member Merriweather)

Chair Merriweather noted that staff is attempting to schedule Brown Act training, and Ms. Stephenson noted that the City Clerk is working on this and she will follow-up.

Chair Merriweather said there is a new Boardmember and she asked if other orientation training could be included in addition to the Brown Act, and Ms. Stephenson said this could be done and she agreed to coordinate this with the Chair.

Chair Merriweather questioned Boardmembers as to their preferred schedule for training and all members indicated they preferred early November and that it be done as a special meeting.

### c) Consider Amending Personnel Board Protocols to Add Standing Agenda Item Labeled "Good of the Order" (Board member Winston)

Angela Cox:

Thanked the Board for their service and diligent efforts to provide quality service to residents and employees. Regarding interpretation of policies and procedures, and she noted that staff acts in the interests of the City and employees act in their interests along with the union. Therefore, she

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believed it to be worthy for the Board to consider having an independent legal person make the Board's interpretations for them.

Jacqueline McBride: Said she has worked for Richmond over 24 years and she thanked the Board for its service. She asked the Board to bear with employees when they show passion about their concerns.

- d) Consider Creating a Subcommittee to Review and Make Recommendations to Board Protocols (Board member Winston)

Stacie Plummer: She suggested that the first order of business for the subcommittee should be to pursue fair and impartial Board counsel. She noted there were previously clear violations of the City Charter, noted the differences between Board and City representation, and currently there is no one to advise and support the perspective of residents and taxpayers, and the Board itself. The City Attorney's office represents City administration only despite of what is reported in public. She reviewed documentation she submitted relating to court cases and representation of legal counsel on Board appeals and she asked that this material be considered.

Vice Chair Brown said he thinks it might be advisable for members of the public to at least consider the possibility that members of the Personnel Board are not easily swayed into any particular position. In fact, members may on occasion ask the City Attorney to withhold his comment so the Board can discuss its issues and opinions.

Boardmember Winston added that the necessity for separate legal counsel might also be part of a discussion at the Board's Retreat, to which Chair Merriweather agreed.

- e) Discuss Personnel Board Attendance (Board member Nair)

Boardmember Nair asked for the procedure for a Boardmember to be absent from a meeting. Chair Merriweather replied that the Charter allows for 3 unexcused absences; however, if a Boardmember cannot be present for a meeting, they should email Ms. Stephenson and alert her to this fact. Ms. Stephenson concurred that this is the procedure and it is not considered as an unexcused absence.

Vice Chair Brown added that page 47 of the Charter contains a process whereby a member has up to 30 days after an absence to submit a request in writing that the absence be deemed excused, and upon the vote of 3 members in the affirmative of the Board, it can be deemed excused.

Mr. Soublet said in each instance of recent absences, staff was notified in advance that members had reasons not to be present.

Boardmember Nair said for the January meeting, she questioned how other Boardmembers know

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not to show up for a meeting. Boardmember Winston replied that staff is to notify the Board. Ms. Stephenson said for that particular meeting, staff did not know until the last moment there would be no quorum.

Chair Merriweather asked the Board to consider future meeting dates and whether or not they will be requesting excused absences.

- f) Consider Establishing a Procedure for Self- Evaluation of Personnel Board Members (Board member Nair)

Boardmember Nair said the Board has been criticized in the past in how it is not functioning. She thinks the Board works hard and has changed a lot to meet regularly and hear comments from the public. She asked if the Board has items to work on and suggested it conduct a self-evaluation at the end of the year if the Board is interested in doing something like this for the retreat. Ms. Stephenson stated that any training for the Personnel Board should include the grievance process.

Chair Merriweather supported self-evaluation to be added to the retreat. Boardmember Winston echoed Boardmember Nair's suggestion, spoke about her experiences on other commissions and boards, agreed that self-evaluation is important, and liked the idea of having some process for understanding the personnel systems better.

- g) Consider Establishing of Policy Addressing Workplace Bullying (Board member Nair)

Stacie Plummer: Said she belongs to the Stop Workplace Bullying group which is a silent epidemic and affects organization's bottom lines. The HRHRC has been reviewing information on this subject and she included information in the Board's packet regarding their efforts to assist the Board. She also included an article about human resources' role in fostering an ethical workplace and she asked the Board to assist in holding the HR department to such standards.

Jackie Thompson: Said the City of Richmond has and protects many bullies in its organization, cited stress-related and anger issues, and said workplace bullying is a City liability. She asked that the Board consider its overall impact and asked for zero tolerance.

Boardmember Nair said she has heard about the effects of workplace bullying from employees and noted they are afraid to speak up about it. She asked Ms. Stephenson what the HR Department is working on regarding this policy.

Ms. Stephenson said the City currently has a "Violence in the Workplace" policy which was created following the tragic Housing Authority incident, and they are now working to create a new policy that would also address the bullying issue. Because the new policy will be a change

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in working conditions, prior to its finalization, the policy will be sent to all six unions. The unions have the opportunity to meet and confer. Staff is also in the process of updating all of its policies, but this is not something that can be done quickly.

Boardmember Winston asked about the Council's role in policy updates. Ms. Stephenson said the general orders are signed by the City Manager and they are very outdated, and the Council is generally not involved in formulating the policies. Mr. Soublet added that because the City Manager is appointed by the Council and the policies deal with the day-to-day policies of the City, he would be responsible for their final approval.

Vice Chair Brown said he sees Item g as having the potential of being perhaps an example for this Board in exercising its independence. The Board must approve classifications, hear appeals, grievance, etc., but under the more general jurisdiction under paragraph 7, there are some broader areas. He believes it is good to have a focus on bullying, but where he sees the value in Item g is giving this Board a concise and focused goal of working on a specific policy that is not so general that they lose the focus. It is specific, and it would give this Board a vehicle to begin to exercise its independence by making independent investigations. He thinks it would be within the purview of this Board to direct the Personnel Director to acquire, between now and the next meeting, examples of any other city policies against bullying. He noted the Board is new and has new membership and he sees the need for reinventing the Board in a focused, positive fashion to be successful and accomplished. He asked that the Board set a goal of six months to adopt a policy addressing workplace bullying and suggested the Chair appoint a liaison with the Personnel Department or other method to move forward.

Boardmember Winston said she thinks at times policies need additional definitions. Bullying has not been properly defined and included in the City's current policies, and she supported Vice Chair Brown's suggestions. Ms. Stephenson noted that the AP policies are available on-line and she offered to scan the general orders and send them to the Board.

Boardmember Williams asked if the City had a code of conduct where employees would have to adhere to, and Ms. Stephenson replied that all employees receive an Employee Handbook which includes the Code of Conduct and more pertinent policies. They acknowledge and sign that they receive the policies. Boardmember Winston noted that the Board is looking for consistency with policies, and Ms. Stephenson agreed to forward the Board the Employee Handbook and all related documents.

Boardmember Nair indicated that those interested in learning more about workplace bullying can visit [www.workplacebullying.org](http://www.workplacebullying.org) which she found useful. Vice Chair Brown noted that Steve Seskin, a resident in Richmond wrote a fairly well-known song called, "Don't Laugh at Me" which has developed into a nation-wide training program for kids in schools.

Chair Merriweather also suggested staff provide the Board with examples of grievances that were filed relating to bullying in the workplace. Ms. Stephenson said there has only been one official grievance in eight years which had bullying involved.

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Vice Chair Brown made a motion that the Board direct the Personnel Department to conduct a review of current City policies and a survey of policies in other jurisdictions that could relate to the concept of bullying, workplace harassment, violence in the workplace, and to report back results to the Personnel Board within a reasonable time; Boardmember Nair seconded the motion, Item was approved by the following vote: AYES: Ms. Nair, Mr. Williams, and Ms. Winston, Mr. Brown and Ms. Merriweather. NOES: None.

**5. UNFINISHED BUSINESS:** None

**6. CONSIDERATION OF PROBLEMS AND REPORTS:** None

**7. ADJOURNMENT:**

The meeting was adjourned at 6:15 p.m.

Respectfully submitted,

LISA STEPHENSON  
ACTING HUMAN RESOURCES MGMT.  
DIRECTOR