

**CITY OF RICHMOND, CA**  
**HUMAN RESOURCES MANAGEMENT DEPARTMENT**

**PERSONNEL BOARD  
REGULAR MEETING**

**CITY COUNCIL CHAMBERS  
440 CIVIC CENTER PLAZA  
RICHMOND, CA 94804**

**FEBRUARY 27, 2014  
MINUTES**

The regular meeting was called to order by Chair Merriweather at 5:02 p.m. on February 27, 2014.

Present: Elaine Merriweather, Chair  
David Brown, Vice Chair  
McKinley Williams, Board Member  
Yvonne Nair, Board Member  
Vicki Winston, Board Member

McLaughlin, Gayle Mayor/Personnel Board Liaison

Absent: None

**2. CONFLICT OF INTEREST**

- None

**3. APPROVAL OF MINUTES:**

**a. Regular Meeting of September 26, 2013**

Vice Chair Brown made a motion to approve the minutes of September 26, 2013; Board Member Nair seconded the motion, Item was approved by the following vote: AYES: E. Merriweather, D. Brown, W. McKinley, Y. Nair, V. Winston. NOES: None.

**b. Regular Meeting of October 17, 2013**

Board Member Nair made a motion to approve the minutes of October 17, 2013; Board Member Williams seconded the motion, Item was approved by the following vote: AYES: E. Merriweather, W. McKinley, Y. Nair, V. Winston. NOES: None. ABSTAINED: D. Brown.

**c. Regular Meeting of December 19, 2013**

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Vice Chair Brown made a motion to approve the minutes of December 19, 2013; Board Member Nair seconded the motion, Item was approved by the following vote: AYES: E. Merriweather, D. Brown, W. McKinley, Y. Nair, V. Winston. NOES: None.

Action:

- Chair Merriweather requested minutes for the Personnel Board Retreat held on December 9, 2013.

#### 4. PUBLIC COMMENT

**SPEAKERS:**

Jacqueline McBride: read from General Order Number 33 in reference to harassment and the employee handbook in reference to fairness to employees and applicants. Ms. McBride cautioned all to be aware of the readings, especially HR. Ms. McBride stated that she was demoted as a result of budget and has watched “idly by” as others have been promoted, especially in HR.

Stacie Plummer: requested the Personnel Board consider working on a whistleblowing policy which does not currently exist in the City of Richmond.

Vivien Feyer: acknowledges the work on the minutes and pleasure to see public comment included in the minutes. Expressed her appreciation in the hearing last month and would like to understand the follow-up after the Board recommendation.

Donna Rayon: stated she was wrongfully discharged in November and has come before the Board on various occasions to ask that the Personnel Board look into this and the treatment she received in Code Enforcement.

Vice Chair Brown questioned Lisa Stephenson in reference to Donna Rayon’s request for a hearing during public comment and a discussion ensued between Vice Chair Brown, Lisa Stephenson, and Donna Rayon with Donna Rayon granting permission to discuss her case in public during the meeting.

A discussion ensued regarding Donna Rayon’s employment status (temporary v. permanent) and Ms. Stephenson informed the Board that she was work completed.

Discussion continued with Chair Merriweather and Board Member Winston regarding the public bringing cases before the Board before going through the process. This discussion will continue later this meeting.

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Action:

- A report describing the circumstances and once the report is complete, forward to Personnel Board, and the employee, Donna Rayon, giving her a chance for a rebuttal.
- Lisa Stephenson will work with Code Enforcement to complete said report since the work completion was done by Code Enforcement and not by HR.

**5. NEW BUSINESS:**

**a. Discuss establishing a procedure for Personnel Board Members to receive grievance materials in advance of the hearing - Board Member Brown**

Vice Chair Brown made a motion to have a discussion on 5b; Board Member Winston seconded the motion, Item was approved by the following vote: AYES: E. Merriweather, D. Brown, W. McKinley, Y. Nair, V. Winston. NOES: None.

**SPEAKERS:**

Stacie Plummer: expressed her concern that the hearing process is “rigged” against the employee and the advance receipt of materials provides another opportunity for partiality and prejudice. The five day in advance receipt of materials would create more hardship for the employee since all evidence must be done in the employee’s spare time.

Stan Fleury: referred to an email between Attorney Todd Simonson, Assistant City Attorney James Atencio, and himself and that his Public Records Request for information on the motorcycle was denied.

Lalo Herrera: agreed with Mr. Brown’s request for information before grievance but providing evidence beforehand would give an advantage to the City.

Action:

- Vice Chair Brown will email the statement to Lisa Stephenson to be placed on the next agenda.
- Lisa Stephenson will forward email to the unions

**b. Discuss additional Brown Act training for Personnel Board Members - Board Member Nair**

**SPEAKERS:**

- None

Action:

- When specific questions in reference to the Brown Act arise, email the question to Lisa Stephenson who will research and respond with an answer

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to all Board Members.

- c. **Discuss Human Resources Department policies and procedures for City employee annual performance evaluations, disciplinary action (progressive discipline), supervisory training, criteria for promotions - Board Member Nair**

**SPEAKERS:**

Jacqueline McBride: read from the Personnel Rules General Orientation Section 1. HR has been promoting within their department during the past six years which reflects preferential treatment while others are laid off – new titles have been created, pay increases internally - while those of us who wish to be promoted have had to compete with outside applicants.

Stacie Plummer: has been denied promotion several times even though she meets the minimum criteria. Ms. Plummer request that the Board look into the criteria for promotion.

Marilyn Langlois: requested that the Personnel Board look into the evaluation process and tighten up the lapses. If the supervisor had constructively reprimanded Stan Fleury at the time of the offense, an expensive investigation process could have been avoided. An evaluation process where the supervisor provides the opportunity for the supervisor to discuss, monitor the employee, and giving the employee the opportunity to improve.

Lalo Herrera: the problem is with HR and the Legal Department who tend to break the rules because they can but the employees are required to work within those perimeters.

Action:

- Board Member Winston will forward a performance planning and evaluation tool to Lisa Stephenson for her to review for usefulness.
- Board Member Nair extends an invitation to employees who are concerned about the fairness of the criteria for promotions to contact her.
- Board Member Williams suggested an organizational assessment for HR done by an outside agency. Lisa Stephenson will discuss with the City Manager. Place on next agenda.
- After discussing with Senior Department Heads, performance evaluations and planning. Place on next agenda.

- d. **Discuss fair hearings for City employees including conflicts of interest inherent in current organization of Human Resources Director/Personnel Board Secretary, City Attorney's Office advising Personnel Board, procedure for communication of grievance hearing requests to Personnel Board members and ex parte communications (substantive v. non-substantive)–Board Member Nair**

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**SPEAKERS:**

Jacqueline McBride: expressed thanks for the Board volunteering and presiding over the hearing last month. She suggested that while making changes the Board avoid creating hearings becoming formal vs. the current informal atmosphere.

Stacie Plummer: discussed commingling of duties such as Assistant City Attorney Bruce Soublet as a representative of the City and a Board advisor. The commingling of legal duties violates due process where the appearance of impartiality and fairness are mandated. Ex parte communication is allowable when scheduling a hearing.

Marilyn Langlois: focused on the role of the HR Director as not that of a lawyer but someone who is skilled as a HR professionalism. Perhaps providing HR training to Lisa Stephenson outside of the legal sphere would provide some guidance

Stan Fleury: agreed with an outside organization audit not only HR but the entire City.

Lalo Herrera: stated that Lisa Stephenson reports to the Board not the Board to her.

Kathleen Sullivan: It is troubling that our Interim HR Director agreed that there are problems at every level, and discrepancies regarding who gets promoted and who does not. Sullivan supports a review of the HR department from an outside agency. She also wants the Personnel Board to consider what is going to be done to make the position permanent and look for an outside HR professional who can come in to run the HR Department.

Action:

- None

**e. Discuss Local 21 grievance hearing and the next steps – Board Member Nair**

**SPEAKERS:**

Stacie Plummer: stated she has several grievances to be heard by the Board. Ms. Plummer requested that the Board schedule her hearing for March Personnel Board Meeting. Ms. Plummer stated that she doesn't want a settlement but wants justice, have her due process and hear the City defend their disciplinary action in public view. The Charter dictates how disciplinary actions like suspensions go through the appeal process vs. the MOU. The Personnel Board hearing must be within 30 days of notification of disciplinary action and this did not happen.

Stan Fleury: stated that he could have gone to arbitration but he chose to have a public hearing so the truth could be told on how the City operates. The Personnel Rules state that after Personnel Board findings and recommendations, the Board is to cause the findings and recommendations to be certified and delivered to grievant and to the City Manager.

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Mr. Fleury requested that the Personnel Board direct them to immediately send the findings in writing. Make them follow the rules.

Jacqueline McBride: implored that the Board follow through with the recommendations of Stacie Plummer. Ms. McBride proceeded to read from General Order #33 and pointed out correlations in the terminology and the offenses committed against Staci Plummer and Stan Fleury.

Discussion ensued between Personnel Board members and Assistant City Attorney James Atencio. There was some confusion on whether the discussion had jumped from 5e to 6b.

Vice Chair Brown made a motion to adopt the written findings of Local 21 Grievance of January 30, 2014 after the spelling of Stan Fleury's name is corrected along with grammar and spelling corrections; Board Member McKinley seconded the motion, Item was approved by the following vote: AYES: E. Merriweather, D. Brown, W. McKinley, Y. Nair, V. Winston. NOES: None.

Action:

- None

**f. Discuss data on Police Department Internal Affairs investigations based on anonymous allegations – Board Member Nair**

**SPEAKERS:**

- None

Action:

- Hold over for next board meeting in order for Board member Nair to provide report

**6. UNFINISHED BUSINESS:**

**a. Discuss Potential Action to Amend Procedures and Protocols to Provide for a Second Public Comment Period**

**SPEAKERS:**

- None

Action:

- Personnel Board agreed not to discuss or vote on this.

**b. Consider next steps regarding Local 21 grievance appeal**

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**SPEAKERS:**

Stacie Plummer: There were due process violations with Mr. Fleury's grievance hearing. Mr. Fleury was denied by the City Council, Board counsel, and outside counsel documents that would have exonerated him from the disciplinary action. There was a conspiracy to block all access to public information. How could there be a fair hearing when the City blocks public information within a public entity, when the Boards Secretary denies receipt of subpoena information but later forwards the request to the Board Chair for issuance, when there was an unlawful three days suspension to a management employee in violation of General Order # 28, Personnel Rules, and Federal Fair Standards Act?

Are you judges or jury when you go away to arrive a consensus when the Charter states that a decision is made by a majority vote.

Vivien Feyer: raised her confusion about the agenda and the difference between 5e and 6b. She recommended phrasing the agenda in a way that would be clear on what is to be discussed.

**6. CONSIDERATION OF PROBLEMS AND REPORTS:**

Action:

- Board Member Nair requested that a discussion about library issues that have been brought to the Board by library employees be placed on the next agenda.
- Vice Chair Brown requested the Library Director attend the March Personnel Board meeting and discuss the status of morale and efficient operation in the City of Richmond Library.
- If there is a grievance hearing at the March meeting, move the library discussion to the April meeting.

**7. REPORTS OF BOARD MEMBERS:**

**8. ADJOURNMENT**

Regular Meeting adjourned at 7:55 p.m.

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