

CITY OF RICHMOND, CA
HUMAN RESOURCES MANAGEMENT DEPARTMENT

**PERSONNEL BOARD
REGULAR MEETING**

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

**MARCH 24, 2016
MINUTES**

The regular meeting was called to order by Chair Elaine Merriweather at 5:15 p.m. on March 24, 2016.

1. ROLL CALL

Present: Elaine Merriweather, Chair
Yvonne Nair, Vice Chair Member
McKinley Williams, Board Member
Vinay Pimple, City Council Member/Personnel Board Liaison

2. STATEMENT OF CONFLICT OF INTEREST

- None

3. APPROVAL OF MINUTES

- Regular Meeting of January 28, 2016

SPEAKERS:

- None

Vice Chair Yvonne Nair made a motion to approve the minutes of January 28, 2016. Board Member McKinley Williams seconded the motion. Minutes were approved by the following vote: AYES: E. Merriweather, Y. Nair, M. Williams NOES: None.

4. PUBLIC COMMENT

SPEAKERS:

Cordell Hindler: spoke on the fact that the job descriptions are old and should be updated. Mr. Hindler stated that Mr. Weems would be in attendance to discuss the library budget. Mr. Hindler also mentioned reading the Personnel Board protocols and noted that the board members cannot ask the speaker any questions.

Chair Merriweather noted that before public comment on agenda items, the agenda item will be framed. In this way, the agenda item is made clear to those in attendance before speaking on the item.

All Board Members agreed to move Unfinished/Old Business to the beginning of the meeting to accommodate the Library Director who had another meeting to attend.

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6. UNFINISHED/OLD BUSINESS

Agenda item framed by Vice Chair Nair

It was noted that Library Commissioner Weems requested that the Personnel Board forward concerns to his attention. Board Member Winston suggested that the packet from this Personnel Board meeting along with the minutes, once approved, be forwarded to him. The Board agreed.

SPEAKERS:

Cordell Hindler: noted that after reading the December minutes on the library budget, the library would be in shambles without librarians.

Tarnel Abbott: a retired MLIS librarian from the City of Richmond Library, stated that it is not possible to have good public service in a library without librarians. Librarians are trained in many areas: how to frame a question, how to evaluate, research, review resources, how to recommend appropriate books, etc. The librarian positions should be filled in a timely manner. The loss of library staff has impacted the library hours and service for the citizens of Richmond. Continued cut-backs will only continue to degrade services. The citizens should receive services for which they pay. Ms. Abbot noted that the bullet points in 6a:2 are not clear but she spoke on the performance evaluations and how they need to be done in a timely manner in order for employees to understand where improvement is needed.

- a. Discuss the Richmond Library and Cultural Services Department Internal Audit (Personnel Board) – see Appendix D
 1. Discuss Retirement of librarians: Discuss concerns about proposed retirement of City of Richmond librarians with reference to: (a) Library organization chart - see Appendix E; (b) Library budget - see Appendix F (Vice Chair Nair)
 2. Discuss MRG Report - see Appendix G: Review possibility of Personnel Board resolution on Municipal Resource Group report on the City of Richmond Library with reference to Appendix H bullet points (Vice Chair Nair)

DISCUSSION:

The Personnel Board addressed the Library Directory Katy Curl with questions on this agenda item. The following are her responses to the Personnel Board Members questions.

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Library Director Katy Curl began by speaking on the concerns of retirements and whether the positions would be filled. Director Curl confirmed the positions would be filled as they became available along with the current open librarian positions. The library has reduced management from six to three positions and librarians from nine to seven. Some of the managerial positions are hands-on MLIS librarians. Another change in staffing was to add three Library Associates, a paraprofessional position with some training, to help with day-to-day basic reference, basic programing under the direction of librarians. This frees up librarians to do higher level work for the public.

Director Curl stated that there is a challenge in meeting the day-to-day needs of the public while continuing outreach to the community. If there were a couple of more librarians, the library would be able to enhance the outreach program. Director Curl also noted that there have been staff cuts city-wide.

Board Member Winston noted that the overall budget has reduced over time. Was the entire budget spent for 2014/15 year?

Director Curl stated she was not sure and did not have the figures with her but that she could provide at a later date.

Board Member Winston raised concern on the fact that Director Curl is not aware whether the budget 2014/15 was spent in its entirety or not. Lack of staffing in the library has been attributed to budget. If budget not spent, it returns to the general fund and viewed as not needed which possibility can lead to a decrease the next year. Board Member Winston emphasized that all City of Richmond department heads should know their budgets and the citizens of Richmond should insist on this knowledge. Board Member Winston recommended that the Library Commission take a close look at the Library budget and how it is being spent.

Council Member Pimple spoke on the fact that the City of Richmond bond rating was downgraded and the City Manager instructed all departments to not spend any department money. Therefore, the library may have had money at the end of 2014/15 fiscal year due to the instructions of the City Manager. Over the past six, seven years City of Richmond staff has dropped by 20% but expenses continue to rise. Even if the budget increases, hiring more employees may not be an option due to the continual rising cost: union negotiations for pay increases, cost-of-living, etc.

Director Curl continued by explaining that the Finance Manager position was moved to the Finance Department as part of a library reorganization. All library managers are responsible for their budget and there is a Finance Analyst in the Finance Department who works with the Library budget. This Finance Analyst also works with other departments. The reorganization also addressed the need for management positions with a wide scope of duties giving flexibility in the use of staff. Director Curl responded to questions with examples of staff doing various functions in the library.

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Discussion ensued on the confusion on the layout of the agenda (6a:1 & 2, or 6a: 1 and 6a:2) and speakers. It was decided by the Personnel Board Members to allow speakers for 6a:2 at this point.

At this point, it was acknowledged that Board Member Winston arrived at 5:18 p.m. and Council Member Pimple at 5:27 p.m. Also introduced was Assistant City Attorney Shannon Moore sitting in for Assistant City Attorney Bruce Soublet and Human Resources Personnel Officer Donna Newton seated next to the Personnel Board Secretary.

SPEAKERS:

Stacey Agnitsch: When reviewing the MRG report, she noted that many items have not been addressed. She raised concerns that the items were to be completed by 2013 and/or 2014. What is really going on? There is a Director, Administrative Librarian, Head of Reference and there is no longer a Finance Manager who, would have been responsible for completing many of the recommended goals. Nothing is being completed in the library in a timely manner from hiring to budget controls. When there was a Finance Manager, we didn't have many of the problems such as not having magazines or newspapers available. Please look at how time is being spent.

Rosanne Ryken: read from the MRG report, page 2, first paragraph, first sentence: "The Richmond Public Library suffers from a serious lack of administrative capacity, resulting in inability to manage personnel and operations effectively. Interpersonal division and divisiveness at all levels has become a cultural problem." The same statement is on page 11 of the Library Internal Audit. Maybe you are unaware that the former Finance Manager attained her MLS degree and was able to do both jobs.

Tarnel Abbott: read from Appendix H, "The Department has developed many policies and procedures for the Library. However, certain common library policies have not been documented." You can get collection development policies standardized and tweak for your library. A cookie cutter policy template is available from the American Library Association. No library should not have this in place. It will help while trying to decide what materials to provide or not. In regards to Finance Manager and nonpayment of bills in a timely manner. What happens with books and periodicals, they are unique items that are available within a specific time frame, then they go out of print or are no longer relevant. Collections can then become incomplete.

DISCUSSION:

The Personnel Board continued by questioning Director Curl on Municipal Resource Group (MRG) report from agenda item 6a:2.

In response to questions on library policies, Director Curl acknowledged that a number of policies need to be reviewed and updated and the Library Commission will be working on this. There currently exist various policies but they are not gathered into one manual.

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Director Curl stated that since the reorganization and the change in management structure, it has made it difficult to evaluate staff because the managers have limited experience and/or knowledge of staff they supervise.

In response to theft and/or loss, Director Curl stated that much of the items were not being tracked effectively and this has since been addressed and improved. There was a misunderstanding on the late fees. It appeared that a large amount of fees were waived but this was not the case. It was due to a typo of a video for \$100000. This fee of course was corrected which reflected a change of \$100000.

5. NEW BUSINESS

Agenda item framed by Vice Chair Nair.

SPEAKERS:

None

- a. Discuss Conflicts of Interest: Discuss the question of inherent conflicts of interest in the multiple roles and responsibilities of the Personnel Board Secretary/Human Resources Director and the Personnel Board Counsel/City Attorney because "what is legal may not be ethical" (Vice Chair Nair)

DISCUSSION

A discussion on the Human Resources Director and City Attorney's Office seated in a position with the Personnel Board compromises the public trust in the Personnel Board.

Secretary Stephenson clarified that the City Charter dictates the secretary to the Personnel Board is the Human Resources Director.

Board Member Winston expressed that it makes sense to have the Human Resources Director be the secretary to the board. The Human Resources Director is the resource for the Personnel Board along with providing staff to organize the meetings. Changing the City Charter will not be a solution to retaliation against someone who speaks at a public meeting. Having open meetings and minutes should foster a lack of fear.

SPEAKERS;

Cordel Hindler: looked at the agenda materials and the anti-bullying policy. Mr. Hindler went through the archives and news articles about the former Human Resources Director. He stated he believes that an anti-bullying policy would be a good idea.

Tarnel Abbott: referring to the organization chart, there is only one administrative employee who supervises one employee. When employed with the City of Richmond she was bullied by this same supervisor. Ms. Abbott was humiliated and was denied a lateral

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transfer. While working in the library she also was a SEIU shop steward and was a target of reprimands, denied access to resources, in particular the book budget for which she was responsible.

Board Member Winston inquired whether an anti-bullying policy would have been helpful in her (Ms. Abbott) case or not. When trying to put the policy together it was because that language was not covered in another policy. The unions felt the harassment policy and other policies could cover bullying if the language is added.

Secretary Stephenson corrected Board Member Winston's statement by expressing that the unions felt that everything in the City of Richmond is investigated. Creating a new policy would not increase anyone reporting. The unions thought the (anti-bullying) policy would be misused. Secretary Stephenson emphasized that she was quoting the unions position.

Board Member Winston asked whether the fact that an anti-bullying policy would have prevented what happened to you (Ms. Abbott).

Ms. Abbott stated that she believed she should have filed a harassment grievance for some of what she experienced. The language in the anti-bullying policy specifically addresses issues that are not in the harassment policy. It may be more efficient to add language to the current harassment policy. She expressed that Human Resource's main focus is to support management at all cost. If only half of what is stated in the Stacie Plummer case is true, we should be appalled.

James Walker: would like to see the Personnel Board pursue an anti-bullying policy. As a participant in the Stacie Plummer case, he has been retaliated against from the City and his supervisor. People are afraid for themselves and their jobs.

In response to a discussion at the dais, Board Member Winston expressed that she isn't convinced of bullying but she has noticed that the same people have come forward and don't have problems expressing their views.

Stacey Agnitsch: expressed her surprise that SEIU rejected the language in the anti-bullying policy. The harassment policy does not protect employees to the full extent. It is difficult to prove bullying by the mandate of federal law. An anti-bullying policy offering protection from the top down is needed. The bullying can exist within the union. In the last 13 years, the culture here is of bullying, intimidation, fear and retaliation. Previously the culture was not like this. It is not the job it used to be. It was a fair place to work and Ms. Agnitsch is currently seeking employment elsewhere. It is an emotional turmoil to work here. An anti-bullying policy will go along way to protect employees in the future. I would be willing to participate in any capacity to aid in the development of an anti-bullying policy.

Lalo Herrera: stated that people are afraid to file grievances. He was in the City of Richmond vs. Plummer and went because it was required by the City of Richmond

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attorney. After the deposition, he requested reimbursement for the day because he was not working at the time. He went to Lisa Stephenson and she denied stating there is no policy for appearances. He requested from the firm the reimbursement. Requested again and ignored.

The Personnel Board Members agreed to extend Ladislao (Lalo) Herrera's speaking time for another two minutes

Mr. Herrera stated that he then submitted a motion to federal judge. Judge set up meeting to discuss issues with the Plummer case and during this the judge commented about the time off and why had he not been compensated. Myers Nave lied by stating he was not part of the union.

Board Member Winston asked if an Anti- bullying policy would have helped.

Mr. Herrera stated that he does not believe so because of implementation. It is the people behind it – they are corrupt. I've been bullied by Lisa Stephenson for 10 years and I have plenty of documentation.

Steffi Berkowitz: introduced herself as CEO of Berkowitz Civility Group, conflict behavior specialist, and mediator. Berkowitz Civility Group specializes in creating mutual interest. She offered to explain the difference between a harassment policy and an anti-bullying policy, the difference between an adversarial versus a listening environment, between having Human Resources with the best of intentions, whose job it is to protect the City, and sit in places in judgement. The policy should be for the spirit of people. If you look at what MRG wrote about the library culture, you will find that this permeates throughout the city. A consensus is needed. Bring everyone to the table. A policy needs to be written specifically for this organization that gives power to the employees to come forward.

Board Member Winston gave a brief history on the Personnel Board developing an anti-bullying policy and stated that it may need to go to the City Council for consideration next.

Vice Chair Nair encouraged Ms. Berkowitz to speak now on this agenda item as an invited guest.

Ms. Berkowitz continued by speaking on the abusive behaviors and administrative remedies. She also discussed obtaining buy-in from all interested parties. What do you want your policy to do or what do you want it to say? What are the expectations? A product that represents the all: Board Members, Human Resources, employees, etc.

Vice Chair Nair noted that there is not an administrative policy for whistleblowing. There is no protection for that person.

Secretary Stephenson, in response to Vice Chair Nair's questions, stated that there is currently AB 2053 training online offered by the City for employees and the Personnel Board is welcome to be included.

In response to Council Member Pimple's question on whether the City has a mediation system in place before the grievance process, Secretary Stephenson stated that there is not an official process in place but mediation has been used and is 98% effective. It can be arranged when the employee brings an issue of conflict to the attention of their supervisor and/or the Human Resources Department. Secretary Stephenson states that the reasons more grievances are not brought before the Personnel Board is in the fact that most of the issues are addressed in Human Resources and resolved. You can approach any union leader and ask them what they feel about the Human Resources Department. There is more than 800 employees in the City of Richmond and in 2015 there were 21 grievances which zero came to this board or are pending arbitration because they were resolved, 30 other, and around 30 investigations.

In response to Chair Merriweather's concern that employees feel unsafe due to retaliation, Secretary Stephenson explained that all correspondence during investigations of complaints, contain a statement that retaliation will result in disciplinary action and if they feel they are retaliated against that they should report it. If reported, it is looked at by an outside party. It is the law.

Vice Chair Nair recommends requesting help with developing an anti-bullying (other titles: abusive conduct, wellness in the workplace, or healthy workplace) policy from Ms. Berkowitz and look for funding. It would be ideal to have a committee including the union, board members, and employees to aid with the development of a policy.

Secretary Stephenson, in response to Board Member Williams' question on what occurred with the policy and the unions, stated that all six unions asked for meet and confer in response to the Anti-bullying Policy. The unions have known that the Anti-bullying Policy has been on the Personnel Board agenda and none have come to the meetings. The unions didn't have any suggestions for language. They were not interested in the policy at all. The union leadership negotiates on behalf of their members. It is illegal to direct negotiate with union members.

Board Member Winston will email Vice Chair Nair language for April agenda

- b. Discuss Anti-bullying Policy: Discuss an anti-bullying policy for employees of the City of Richmond, with reference to (Vice Chair Nair):
- Stacie Plummer vs. City of Richmond et al. (Case No. C14-03962 NC) - see Appendix A (Vice Chair Nair)
 - General Order #33: Current Policy Against Workplace Harassment - see Appendix B (Vice Chair Nair)
 - Policy Prohibiting Workplace Bullying Draft – see Appendix C (Vice Chair Nair)

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- AB 2053, which went into effect on January 1, 2015, thereby requiring that California employers with 50 or more employees provide training on the “prevention of abusive conduct” along with the sexual harassment training already required by law (Vice Chair Nair)
- outside consultant to help develop the anti-bullying policy (Vice Chair Nair)

Agenda item framed by Vice Chair Nair.

- c. Discuss Grievance hearing of Ladislao (Lalo) Herrera (Vice Chair Nair)

SPEAKERS:

Cordel Hindler: acknowledged that Lalo is a hard worker and expressed his sadness at him being suspended after 20 years of working with the City of Richmond. Mr. Hindler went on to state that he (Lalo) doesn't deserve this treatment and the board should schedule his hearing.

Lalo Herrera: stated that based on this situation and at this point he stated that he had not received a response from the City Manager. According to the M.O.U., the City Manager has not met the timeline for response. Basically trying to appeal his five-day suspension because it wasn't justified. The assessment fee is either under or over charged contractors and others. This is wrong. It was reported to the supervisor and Lisa Stephenson but they just ignore him instead of fixing the problem. Just requesting his appeal be heard by the Personnel Board.

Secretary Stephenson stated that she understood that the City Manager has responded but has not received a response as requested from Mr. Herrera. Secretary Stephenson will confirm this by the April meeting.

Board Member Winston requested that all outstanding responses to the City Manager questions be completed so that the concentration during the hearing be on the issues.

Mr. Herrera stated he is being asked to describe processes and his job classification – just a trainee. They want him to describe processes that they can use against him during the hearing.

It was discussed to schedule the hearing for May.

In reference to subpoenas for upcoming grievance, Mr. Herrera stated that he does not plan on subpoenaing anyone.

Agenda item framed by Council Member Pimple

- d. Discuss Spending on outside attorneys: Discuss amount spent by the City of Richmond on outside attorneys in grievance hearings (Vice Chair Nair)

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SPEAKERS:

Cordel Hindler: stated that some of the best city attorneys why pay outside attorneys – it should be the city attorneys.

Secretary Stephenson is reviewing the cost of outside attorneys that are hired by the City Attorney's office and she will have to go through and pull what portion is used for grievances. She will also provide the expense for all outside attorneys.

Board Member Winston inquired on whether the City Attorneys are litigators or not. Assistant City Attorney Moore replied that there are no in-house litigators. All litigations are handled by outside attorneys.

7. REVIEW OF SUBPOENA(S)

- None

8. CONSIDERATION OF PROBLEMS AND REPORTS

- None

9. ADJOURNMENT OF REGULAR MEETING

Regular meeting adjourned at 8:17 p.m.