

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

**PERSONNEL BOARD  
REGULAR MEETING**

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

**MAY 26, 2016  
MINUTES**

The regular meeting was called to order by Chair Elaine Merriweather at 5:15 p.m. on May 26, 2016.

**1. ROLL CALL**

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

Absent: Vinay Pimple, City Council Member/Personnel Board Liaison

**2. AGENDA REVIEW**

Assistant City Attorney Bruce Soublet explained that adding Agenda Review to the Personnel Board agenda gives an opportunity to review the agenda and make any necessary changes to the agenda order at that point of the meeting. Agenda Review has also been added to the Personnel Board Procedures and Protocols.

Board Member Winston suggested moving 6c to before 6b. Personnel Board Members agreed to agenda change.

**3. STATEMENT OF CONFLICT OF INTEREST**

- None

**4. APPROVAL OF MINUTES**

- Regular Meeting of March 24, 2016

**SPEAKERS:**

- None

Vice Chair Yvonne Nair made a motion to approve the minutes of March 24, 2016. Board Member McKinley Williams seconded the motion. Minutes were approved by the following vote: AYES: E. Merriweather, Y. Nair, M. Williams, V. Winston. NOES: None.

**5. PUBLIC COMMENT**

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**SPEAKERS:**

Cordell Hindler: expressed his continued concern on the outdated job descriptions that are currently online. These should be addressed by each City department.

Ladislao Herrera: asked whether 6c or 8 was in reference to his case or not.

Assistant City Attorney Soublet clarified that one was for setting the hearing date and the other for issuing subpoenas for the hearing.

Ladislao Herrera: noted that his confusion was due to the fact that he had notified the Personnel Board last month that he was not in need of any subpoenas for the hearing.

**6. NEW BUSINESS**

- a. Discuss and approve updated Procedures and Protocols for Personnel Board

**SPEAKERS:**

Cordell Hindler: The old Procedures and Protocols for Personnel Board was dated 2012 and he expressed how he liked the newer version because of the outline of the agenda. Mr. Hindler stated that it is spelled out clearly but it does not show that August is a month of recess. He expressed hope that the Personnel Board would approve this item.

**DISCUSSION:**

Various points were discussed by the Personnel Board and the following changes are to be made to the Procedures and Protocols for Personnel Board document:

- Item 8 under subpoenas - change wording from "of servicing" to "for serving"
- remove quote marks from Item 8 second paragraph
- Add language to item III indicating agenda language that clearly notes whether an item is a voting item, discussion item, etc.

Other discussion topics for clarification purposes only:

- Personnel Board recess: It was decided that the best policy would be to make a formal vote to recess the month before taking the recess.
- What is a majority of the Board: the majority of the board is the majority of the allocated members of the body of the Personnel Board which is three (3).
- What constitutes an unexcused absence: Failure to make contact prior to the Personnel Board meeting.
- Reading of Minutes versus Approval of Minutes was discussed as being

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unnecessary. It was decided to leave as is since a reading of the minutes into record could be requested.

Chair Merriweather expressed concern that the Personnel Board fifth member has not been seated.

It was explained that the City Council would not seat the nominee for the Personnel Board since a second on the motion was not received. The Charter states that the seat is nominated by Public Safety, a vote by the City of Richmond employees and then placement by City Council.

Board Member Winston noted that this can have a chilling effect on citizens willing to volunteer when City Council doesn't place a person selected by employees.

Board Member Winston made a motion to approve the updated Procedures and Protocols for the Personnel Board as amended. Board Member McKinley Williams seconded the motion. Minutes were approved by the following vote: AYES: E. Merriweather, Y. Nair, M. Williams, V. Winston. NOES: None.

c. Discuss grievance appeal hearing – SEIU 1021 (Vice Chair Nair)

**SPEAKERS:**

Cordell Hindler: stated that in March at the grievance hearing he had stated that Mr. Herrera is a hard-working individual and should not have been suspended without pay. Mr. Hindler expressed his hope that the Personnel Board act in kindness and knowledge.

Ladislao Herrera: introduced himself as an employee with the Engineer Services Department and stated that his appeal was denied by the City Manager. Mr. Herrera stated that he attended this meeting to request an appeal hearing and discuss as stated on the agenda.

**DISCUSSION:**

Board Member Winston expressed concern on how the grievance is denied by the City Manager, the next step is the Personnel Board and then returns to the City Manager. It appears very circular.

Vice Chair Nair explained that the next step would be the City Council in closed session.

The City Council is the final step. In a previous hearing, the Personnel Board moved the appeal hearing decision to the City Council where the City Manager's decision was upheld.

Secretary Stephenson explained the Personnel Rules is written as such. As described in the MOUs, an employee may choose to go before the Personnel Board or binding

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arbitration. The unions can ask to change the language.

Ladislao Herrera spoke on the fact that he commented to the City Manager during a meeting that there wasn't appropriate training for fee assessment and the City Manager stated that everyone should be trained and that fees should be assessed correctly. The City Manager didn't seem to know....

Secretary Stephenson mentioned that Mr. Herrera's statements are close to being testimony.

Board Member Winston stated that Mr. Herrera was commenting on what she (Board Member Winston) was saying.

Ladislao Herrera continued to speak on the fact that the following day of the meeting he received the letter denying his appeal.

In a discussion between the Personnel Board, Secretary Stephenson, and Assistant City Attorney Soublet the following was explained: The City Charter states that the Personnel Board can make a recommendation to the City Manager. The Personnel Rules govern the rules for the hearing. If there is a disagreement between the Personnel Board and the City Manager, the Personnel Board can appeal to the City Council. The MOU states that the grievant can choose between Personnel Board and binding arbitration. The City Manager has a step in each of the MOU grievance hearings. If the Personnel Board wanted to change from being a recommending board to a binding board, the Charter and the Personnel Rules would need to be changed.

Ladislao Herrera requested a hearing for his appeal.

Scheduling of hearing was discussed and the final agreement was for Wednesday, June 22 at 5:15 p.m. It will be a special meeting including regular business followed by the hearing. The regular meeting schedule for June 23, 2016 will be cancelled.

Board Member Winston, term expires June 21, 2016, will make herself available for the hearing.

- b. Discuss whistleblower policy: At present, the City of Richmond lacks an ordinance or policy to protect City employees who report or otherwise inform their superiors of possible illegal or unethical action, activity, or other behavior that threatens the integrity of the City or relates to the quality and delivery of City services. (Vice Chair Nair)
- Discuss the need for a whistleblower policy, with reference to the case of Stacie Plummer vs. City of Richmond
  - Review current Richmond Municipal Code and policies for content related to whistleblowing and protection of whistleblowers from retaliation
  - Explore whistleblower ordinances and policies in neighboring municipalities, including Oakland

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**SPEAKERS:**

- None

**DISCUSSION:**

Vice Chair Nair expressed her concern on the lack of an administrative process for handling the complaint of an employee which ended up costing the City over \$100,000. Other cities have ethics committees. How does the City handle a complaint against upper management? Does the City have an ordinance? Vice Chair Nair requested a study of other cities processes for such complaints and to have the results reported back to the Personnel Board in three months.

There was discussion on how ultimately the goal is to protect an employee from retaliation while going through the process of a complaint.

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

Cordell Hindler: reiterated his statement from the March 20 meeting on how during a previous hearing the grievant did not have an attorney while the City was represented by an outside attorney. The City Attorneys should represent the City during grievance hearings.

Vice Chair Nair clarified for the speaker that the City Attorney is an advisor for the Personnel Board and therefore it is a conflict for him to represent the City in a grievance.

**DISCUSSION:**

Secretary Stephenson stated that approximately \$15,000.00 was spent on outside attorneys for grievances. There are not many grievances in the City and it is not a high expense item. Both sides choose their representation during a grievance.

**7. UNFINISHED/OLD BUSINESS**

- a. Discuss Anti-bullying policy: To insure compliance with California AB2053 which went into effect January 1, 2015, and in the interest of providing a healthy workplace culture, direct the City Manager to (1) amend the existing harassment policy to include prohibition of abusive conduct/bullying behavior in the workplace including the provision of administrative procedures for preventing, reporting and responding to such prohibited conduct, and (2) provide training to all employees on the prevention of abusive conduct in addition to and along with the sexual harassment training currently required by law. (Vice Chair Nair)

**SPEAKERS:**

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- None

**DISCUSSION:**

Vice Chair Nair and Board Member Winston recommended modifying the existing Harassment policy to include the language of 7a and to include bullying as a part of harassment in the training discussion.

Secretary Stephenson stated the change to the policy is subject to meet and confer with the unions.

- b. Discuss update on Richmond Library and Cultural Services Department internal audit. (Vice Chair Nair)

**SPEAKERS:**

Cordell Hindler: explained that the Library Commission has discussed this in their meetings and he offered to answer any questions.

Vice Chair Nair asked whether the Library Commission will be addressing the library audit items not yet completed.

Cordell stated that Library Director Curl presented an updated budget to the Library Commission at their March meeting and Library Director Curl also did a budget presentation for the City Council.

Board Member Winston expressed her continued concern on the Library budget and a lack of spending for allotted hires which creates difficulty in the future when the hiring budget is decreased. Board Member Winston recommended that the Library Commission vigorously pursue this conversation.

Board Member Winston offered to pass on to the Library Commission the materials she has gathered over the years in reference to library issues.

Cordell Hindler will bring up the Personnel Board concerns at the next Library Commission meeting.

Human Resources staff will send a follow-up email to Library Commissioner Mr. Weems asking whether the Library Commission is going to follow up on the concerns that have been brought before the Personnel Board along with the outstanding audit items. Until a response is received, this item will remain on the Personnel Board agenda.

**7. REVIEW OF SUBPOENA(S)**

**SPEAKERS:**

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Ladislao Herrera: stated that he does not have any subpoenas for the hearing. Mr. Herrera informed the Personnel Board that he submitted a demand letter to the City Manager through his lawyer.

Cordell Hindler: spoke about the grievance hearing and hopefully the Personnel Board will schedule a hearing and that Lalo is represented by his attorney.

Mr. Simonson was introduced as the attorney representing the City at the grievance hearing.

Mr. Simonson explained the issue of the grievance as being the fact that the grievant was asked to complete fee assessment for encroachment permits, which is the task of adding up the fees charged by the City, and had been doing this type of work for a number of years but beginning last October initially refused to perform this task claiming it as being outside his job classification. When ordered to complete the task, the grievant intentionally submitted incorrect fee assessments. The City plans on subpoenaing a total of six people including his supervisor, a few of the grievant's co-workers, and previous supervisors to testify about discussions on fee assessments. The grievant will also be questioned at the hearing.

Board Member Winston made a motion to approve the issuance of the six requested subpoenas. Board Member McKinley Williams seconded the motion. Minutes were approved by the following vote: AYES: E. Merriweather, Y. Nair, M. Williams, V. Winston. NOES: None.

Soublet stated that the subpoenas will be prepared and forwarded to Chair Merriweather for signature.

**8. CONSIDERATION OF PROBLEMS AND REPORTS**

- None

**9. ADJOURNMENT OF REGULAR MEETING**

Regular meeting adjourned at 6:47 p.m.