

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

**PERSONNEL BOARD  
REGULAR MEETING**

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

**JULY, 28 2016  
MINUTES**

The regular meeting was called to order by Chair Elaine Merriweather at 5:15 p.m. on Thursday, July 28, 2016.

**1. ROLL CALL**

Present: Elaine Merriweather, Chair  
Yvonne Nair, Vice Chair Member  
Steve Early, Board Member  
McKinley Williams, Board Member

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

Steve Early was introduced as a new Personnel Board Member.  
Donna Newton, Human Resources Personnel Officer, sat in for Secretary Lisa Stephenson for the first part of the meeting

**2. AGENDA REVIEW**

- None

**3. STATEMENT OF CONFLICT OF INTEREST**

- None

**4. APPROVAL OF MINUTES**

**SPEAKERS:**

- None
- Regular Meeting of June 22, 2016

Vice Chair Yvonne Nair made a motion to approve the minutes of June, 22 2016. Board Member McKinley Williams seconded the motion. Minutes were approved by the following vote: AYES: E. Merriweather, Y. Nair, M. Williams, NOES: None.

**5. PUBLIC COMMENT**

**SPEAKERS:**

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Cordell Hindler: spoke on the update of the Procedures and Protocols for the Personnel Board and also extended his welcome to the new Personnel Board Member Steve Early. Mr. Hindler also shared his pleasure that the Administrative Student Intern position currently has four applicants.

## 6. NEW BUSINESS

### **SPEAKERS:**

Cordell Hindler: presented to the Personnel Board Members two job descriptions and stated that the Senior Assistant to the Mayor is an example of a job description from 2006 and the Administrative Secretary is dated 2003. Mr. Hindler expressed that he would like to see outdated job descriptions updated.

- a. DISCUSS position descriptions: Discussion of updating position descriptions within the City of Richmond:
  - When a position description changes, does the employee lose the job?  
(Vice Chair Nair)

### **DISCUSSION:**

HR Personnel Officer Newton explained that when a job description is revised, a person does not lose their job. One of the goals for Human Resources (HR) this year is to work on the job descriptions and by the end of the year the Personnel Board should receive approximately 10 revisions.

Vice Chair Nair stated she has found updated job descriptions and inquired why these updated job descriptions were never brought to the Personnel Board. HR Personnel Officer Newton explained that minor grammatical and/or spelling changes can be made without bringing to the Board. Ms. Newton requested that any job description that is found to have changes without the approval of the Personnel Board be brought to her attention. Vice Chair Nair stated she would said job descriptions to HR Personnel Officer Newton's attention.

HR Personnel Officer Newton explained the process for making changes to job descriptions. Any major changes to a job description are brought before the Personnel Board. If a job has evolved but a job description has not changed, a desk audit may be done and the employee(s) complete a questionnaire along with their supervisor and then interviewed by an HR analyst. From that, it is determined whether the job description needs to be updated. If the desk audit reflects that the employee(s) is working outside the scope of their job, the employee(s) is then reclassified to a higher position.

The desk audit is done first, a proposed job description is sent to the union, and then brought to the Personnel Board for approval. It only goes to City Council if the job title is changed and/or salary change.

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**SPEAKERS:**

- None
- b. DISCUSS toolkit for new Personnel Board members: When new members join the Personnel Board, in order to help them do the best job possible, they would benefit from a Personnel Board Toolkit, which would help them understand past issues and current challenges. Content would include the Charter, rules, MOUs, and conflicts of interest. (Vice Chair Nair)

**DISCUSSION:**

Vice Chair Nair expressed the frustration of not knowing the full scope of their position as Board Members and would like to be provided training on a more frequent basis. Of concern: the Brown Act, Ethics training, procedure for placement of items on the agenda, etc. Copies of the Brown Act update and PowerPoint training will be emailed to the Personnel Board. After receiving the email and reading the material, Senior Assistant City Attorney Soublet stated that the Board Members can contact him with any questions or concerns.

A binder containing the following was provided to Personnel Board Member Early:

- City Charter
- Personnel Rules
- Open & Public V: A Guide to the Ralph M. Brown Act
- PowerPoint slides on Brown Act
- Western City article *The Brown Act and the Perils of Electronic Communication*
- Updated Personnel Board Procedures and Protocols
- M.O.U.s for each union

Provide the grievance steps to the Personnel Board for the August meeting.

Senior Assistant City Attorney Soublet will provide a link by email on AB 1234 training. The Personnel Board Members must complete AB 1234 training every two years to be in compliance.

Senior Assistant City Attorney Soublet stated that any item that the Board would like to see added to their toolkit can be requested by email. Vice Chair Nair expressed her confusion on how requesting items via email is not a Brown Act violation since the public would not be privy to the request nor the receipt of an item. Senior Assistant City Attorney Soublet explained that it would not be a violation if it did not change how the Personnel Board functions and the email did not become a back and forth communication between Board Members. Changes in the functions of the Board would have to be placed on the agenda.

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## 7. UNFINISHED/OLD BUSINESS

### SPEAKERS:

Cordell Hindler: after doing some research online, found some policies on workplace bullying. Mr. Hindler stated that he has raised his concern on workplace bullying at previous meetings. Bullying is hurtful.

- a. DISCUSS Anti-bullying policy: Discussion of Berkowitz Civility Group proposal for helping to implement an anti-bullying policy for the City of Richmond. (Vice Chair Nair)

### DISCUSSION:

A proposal from the Berkowitz Civility Group was distributed by Vice Chair Nair to the Board Members, secretary and the public.

The proposal, along with workplace bullying policy, is the result of various employees expressing their being victims of workplace bullying during public comment. The goal is to explore the depths of the problem and ultimately arrive at a solution to the problem by figuring out what to do differently and how to set expectations for ourselves. The goal is also on where to go next.

This item should be placed on the next agenda giving time for everyone to read the proposal.

Chair Merriweather asked what the process is for submitting this proposal.

Senior Assistant City Attorney Soublet explained that the previous policy was presented to each union through the meet and confer process and was ultimately rejected by all six unions.

Vice Chair Nair spoke on the possibility of the Personnel Board first approving the Berkowitz proposal and the next step would be to work with the Berkowitz Group.

Secretary Stephenson spoke on the fact that the training budget has been cut significantly. Work on a bullying policy in-house can continue but the funds are not available to pay for an outside entity.

Human Resources Personnel Officer Newton emphasized the fact that the Berkowitz Civility Group has not been selected to do work for us and before Berkowitz proposal can be considered, the process for a Request for Quotation (RFQ) by the City of Richmond would have to be initiated. If Berkowitz, or possibly another agency, is hired, they would have to go through the City of Richmond bidding process first.

Board Member Early inquired on the union's position on the previously submitted Bullying Policy and Secretary Stephenson explained that all six unions raised concern on the misuse of a bullying policy. Most complaints are members against members. The unions noted that all complaints are investigated including bullying. There are two parties and each party has rights. What you see here are the people who are dissatisfied, which does not mean that the issue was not heard and investigated.

**SPEAKERS:**

Cordell Hindler: researched online and found the Stacie Plummer case settlement was very costly for the City of Richmond. This is a very important issue and should be worked on.

- b. DISCUSS the need for a 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, results in bullying of City employees, or reduces the quality or delivery of City services, with reference to:
- (1) the case of Stacie Plummer vs. City of Richmond;
  - (2) California Labor Code Section 1102.8 (a), particularly "with reference to employee safety or health, unsafe working conditions or work practices in the employee's employment or place of employment" in connection with the case of a City employee who was threatened with physical violence by his superior; and
  - (3) California Labor Code Section 1102.8 (a), particularly in connection with a possible "violation or noncompliance with a local, state or federal rule or regulation" when a City employee seeks to prevent a City Council Member from making legitimate inquiries regarding public safety and when that City employee seeks to intimidate other City employees from sharing information potentially important to public safety. (Vice Chair Nair)

**DISCUSSION:**

Vice Chair Nair expressed the desire to have an avenue for employees to complain about supervisors and be protected. What is in place for employees? The employees don't trust the City. There is no process in place for the employees.

Secretary Stephenson explained there is the law. In terms of the email Vice Chair received, the entire story was not provided. Lastly, the survey will be provided in October.

Secretary Stephenson expressed her worry that this email can taint the process while Vice Chair Nair contradicted with her perspective that the employees don't have a place to go.

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Secretary Stephenson clarified that there is a place for employees and that 99% of the time the employees are satisfied. To clarify, Secretary Stephenson emphasized that she was not disputing whether there should be a whistleblowing policy but the fact that there is a process for employees.

The email sent to the Personnel Board can possibly taint the process if it ends up coming before the Personnel Board as a grievance. Secretary Stephenson explained the damage of a confidential memo being sent to the Vice Chair is of great concern to her and to all parties involved – all the parties have rights also.

Vice Chair Nair state that employees don't feel there is a process. Vice Chair asked what is the next step for this employee?

Senior Assistant Attorney Soublet explained when an employee files a discrimination complaint and the investigation results that there was not a violation and the employee is not satisfied with the result then their next step is to file a lawsuit against the City. State and Federal law require that the City investigate complaints promptly. If not satisfied, the employee can go to EEOC, Department of Fair Employment and Housing, or file a lawsuit.

**SPEAKERS:**

- None
- c. RECEIVE an update on the whistleblower policy survey set to be presented at the October Personnel Board meeting on:
- Explore whistleblower ordinances and policies in neighboring municipalities, including Oakland (Vice Chair Nair)

**DISCUSSION:**

Chair Merriweather noted that this item will be discussed in October.

**SPEAKERS:**

Cordell Hindler: informed the Board Members that Mr. Weems is no longer on the Library Commission due to the end of his term on July 1. The budget items will be discussed by the Library Commission.

- d. RECEIVE an update on the Library Commission response to the Richmond Library and Cultural Services Department internal audit. (Vice Chair Nair)

**DISCUSSION:**

Vice Chair inquired whether the Library Commission is going to follow up with the outstanding audit items. It would be more desirable to have the Library Commission

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look into these items rather than the Personnel Board. Library Commissioner Hindler stated that they will be looking into it during their next meeting.

The email sent to Mr. Weems will be sent to the incoming Chair for the Library Commissioner once seated.

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

**SPEAKERS:**

- None

**9. CONSIDERATION OF PROBLEMS AND REPORTS**

**SPEAKERS:**

- None

a. DISCUSS and APPROVE granting Local 188 employee the requested grievance hearing before the Personnel Board:

- City of Richmond's "Notice of Investigatory Findings" (Vice Chair Nair)

**DISCUSSION:**

There is no grievance. A grievance was never filed.

There was some discussion on the email received by Vice Chair Nair and to whom she should forward on to since it was addressed to the entire Board. Secretary Stephenson requested that the attached (to the email) confidential memo not be forwarded. Vice Chair Nair questioned the process when a Board Member receives such an email. What is to be done? Secretary Stephenson noted that Local 188 Union President and the employee both know the process for filing a grievance. The process has been made very clear to the union and the employee during a meeting with the union and the employee. As to the letter/email, Secretary Stephenson stated that Vice Chair can reply by recommending that the employee meet with his union or that the employee file a grievance. Board Member Williams stated that there is a risk when sharing information for a possible upcoming grievance and it is up to Vice Chair Nair to assess the risk and decide how to proceed. Senior Assistant Attorney Soublet clarified that the employee who emailed the Vice Chair did not make clear what he wanted and until he follows the grievance process in his MOU, nothing can be done.

Secretary Stephenson stated that she has made various attempts to contact him and his union and have him file something in writing explaining what is the violation and the remedy. To date, nothing has been received.

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Senior Assistant Attorney Soublet stated that she could reply to the employee asking what he is requesting. If the Vice Chair is worried about not responding and being accused of doing nothing, she should not worry because the employee has made no request. The employee knows the grievance process and has not followed up.

Human Resources Director Stephenson, in response to the email sent to Personnel Board Vice Chair Nair and not having heard from either the Local 188 union or the employee, scheduled a follow-up meeting with the employee's union business agent, the employee, and the investigator. During said meeting, the employee has confirmed that no new incidents have occurred and was referring (in the email) to the single incident that was investigated. He was informed that he should provide something in writing. He was informed that he can go through his union if he did not want to deal with the Human Resources Director directly. He has not provided anything nor has his union.

For the upcoming grievance, any supplements will be sent as required within the five business days.

#### **10. ADJOURNMENT OF REGULAR MEETING**

Regular meeting adjourned at 6:33 p.m.