

PERSONNEL BOARD

<http://www.ci.richmond.ca.us/1090/Personnel-Board>



REGULAR MEETING
Thursday, May 26, 2022
5:15 p.m.

ALL BOARDMEMBERS WILL PARTICIPATE VIA VIDEO OR TELECONFERENCE



AGENDA

Personnel Board Members

Vernetta Buckner
Mindy Pines
Larry Wirsig
Kyra Worthy

1. **ROLL CALL**
2. **AGENDA REVIEW**
3. **STATEMENT OF CONFLICT OF INTEREST**
4. **APPROVAL OF MINUTES**
 - a. Regular Meeting of April 28, 2022
5. **PUBLIC COMMENT**
6. **CONSENT AGENDA**

None
7. **NEW BUSINESS**
 - a. **ELECT** Personnel Board Chair and Vice Chair
 - b. **CONSIDER AND SCHEDULE** a Personnel Board Hearing on an appeal of a grievance alleging violation of a collective bargaining agreement (Employee P)
 - c. **CONSIDER AND SCHEDULE** a Personnel Board Hearing on an appeal of a grievance alleging violation of a collective bargaining agreement (Employee T)
8. **UNFINISHED/OLD BUSINESS**

None
9. **REVIEW AND/OR ISSUANCE OF SUBPOENA(S)**

None
10. **CONSIDERATION OF PROBLEMS AND REPORTS**
11. **ADJOURNMENT**

NOTE: Copies of items to be distributed from the Public to the Personnel Board must also include two (2) copies; one (1) for the Secretary to the Board and one (1) for Board Counsel.

COMMUNICATION ACCESS INFORMATION This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact Laura Marquez, ADA Coordinator at ADACoordinator@ci.richmond.ca.us or (510) 620-6974 at least three business days before the meeting date.

CORONAVIRUS DISEASE (COVID-19) ADVISORY

Due to the coronavirus (COVID-19) pandemic, Contra Costa County and Governor Gavin Newsom have issued multiple orders requiring sheltering in place, social distancing, and reduction of person-to-person contact. Accordingly, Governor Gavin Newsom has issued executive orders that allow cities to hold public meetings via teleconferencing (Executive Order N-29-20). Both provide updated coronavirus information.

<https://www.coronavirus.cchealth.org>

and

<http://www.ci.richmond.ca.us/3914/Richmond-Coronavirus-Info>

DUE TO THE SHELTER IN PLACE ORDERS, attendance in the Personnel Board meeting will be by teleconference only. Public comment will be confined to items appearing on the agenda and will be limited to the method provided below. Consistent with Executive Order N-29-20, this meeting will utilize teleconferencing only. The following provides information on how the public can participate in this meeting.

How to watch the meeting from home: The meeting may be accessed by using the following Zoom meeting link:

<https://us06web.zoom.us/j/85011892620?pwd=MkV5eDEzRTlOcFdJNFJxOGtaTnZ0Zz09>

Webinar ID: 850 1189 2620 Passcode: ezyKB0

Public comments may be submitted: via email to personnel_board@ci.richmond.ca.us. Email must contain in the subject line **Public Comment**. The email must be submitted on or before Thursday, May 26, 2022 by 12:00 Noon.

Public comment for an agenda item may be submitted by sending an email to mailto:personnel_board@ci.richmond.ca.us by 12:00 Noon on Thursday, May 26, 2022. The email must contain in the subject line **Public Comment on Agenda item #**. The request must include the following:

- (a) Your Name
- (b) Your Phone Number
- (c) The Item for which you wish to make a Public Comment

Public comment is limited to two (2) minutes.

The City cannot guarantee that its network and/or the site will be uninterrupted.

Record of all public comments: All public comments will be considered a public record, put into the official meeting record, and considered before Personnel Board action. All public comments will be available after the meeting as supplemental materials and will be posted as an attachment to the meeting minutes when the minutes are posted.

Accessibility for Individuals with Disabilities: Upon request, the City will provide for written agenda materials in appropriate alternative formats, or disability related modification or accommodation, including auxiliary aids or services and sign language interpreters, to enable individuals with disabilities to participate in and provide comments at/related to public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, auxiliary aid, service, or alternative format requested at least two days before the meeting. Requests should be emailed to personnel_board@ci.richmond.ca.us or submitted by phone at 510-620-6588. Requests will be granted whenever possible and resolved in favor of accessibility.

CITY OF RICHMOND, CA
HUMAN RESOURCES MANAGEMENT DEPARTMENT

PERSONNEL BOARD
REGULAR MEETING

TELECONFERENCE VIA ZOOM
450 CIVIC CENTER PLAZA
RICHMOND, CA 94804

April 28, 2022
MINUTES

The regular meeting was called to order by Chair Steve Early at 5:20 p.m. on April 28, 2022.

1. ROLL CALL

Present: Steve Early, Chair
Vernetta Buckner, Board Member
Mindy Pines, Board Member
McKinley Williams, Board Member
Kyra Worthy, Board Member

Absent: Larry Wirsig, Board Member

2. AGENDA REVIEW

The court reporter for item 10. CONSIDERATION OF PROBLEMS AND REPORTS: RPOA Grievance continued from February 24, 2022, is expected but may be late. If so, it is recommended, to be determined upon court reporter time of arrival, that item 12. CLOSED SESSION: Public Employee Discipline/Grievance (Gov. Code § 54957): Deliberation of Employee Martin grievance hearing, be moved prior to item 10. RPOA Grievance Appeal Hearing continued from February 24, 2022.

3. STATEMENT OF CONFLICT OF INTEREST

- None

4. APPROVAL OF MINUTES

- Regular Meeting of February 24, 2022.

SPEAKERS:

- None

Board Member Pines made a motion to approve the minutes of February 24, 2022. Chair Early seconded the motion. Minutes were approved by the following vote: YEA: S. Early, M. Pines, K. Worthy. NAY: None. ABSENT: L. Wirsig. ABSTAIN: V. Buckner.

Audio recordings of Personnel Board Meetings are available at:

<http://www.ci.richmond.ca.us/index.aspx?NID=1090>

5. **PUBLIC COMMENT**

SPEAKERS:

Cordell Hindler: email received and read

6. **CONSENT AGENDA**

- None

7. **NEW BUSINESS**

Public Comment for this item moved to post presentation of the following item as per Sr. Assistant City Attorney Annuitant Bruce Soublet.

- a. **APPROVE** the revisions to the Employment Program Manager job specification

Principal Personnel Analyst Catherine Selkirk presented the job specification Employment Program Manager revisions in preparation for an upcoming recruitment. Primarily updating outdated language.

An error in spelling was found in job specification post publishing Personnel Board agenda: tacking should read tracking (found on page 2, #8: Develops and oversees program ~~tacking~~ tracking...) Adoption of job specification Employment Program Manager pending said correction.

SPEAKERS:

Cordell Hindler: As a resident of Richmond, Cordell stated agreement with job specification updates and encouraged approval by Personnel Board Members.

Board Member Pines made a motion to approve the revision to the Employment Program Manager job specification. Chair Early seconded the motion. Revision to the Employment Program Manager were approved by the following vote: YEA: S. Early, V. Buckner, M. Pines, K. Worthy. NAY: None. ABSENT: L. Wirsig. ABSTAIN: None.

8. **UNFINISHED/OLD BUSINESS**

9. **REVIEW AND/OR ISSUANCE OF SUBPOENA(S)**

- None

11. **PUBLIC COMMENT PRIOR TO CLOSE SESSION**

- None

12. **CLOSE SESSION – Moved as per Agenda Review**

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- a. Deliberation of Employee Martin grievance hearing

Closed Session deliberation regarding Public Employee Discipline/Grievance (Gov. Code § 54957) commenced at approximately 5:30 p.m. via another Zoom link with attendees Chair Early, Board Members M. Pines, K. Worthy and Sr. Assistant City Attorney Annuitant Bruce Soublet.

13. **REPORT ON CLOSED SESSION ACTIONS, IF APPLICABLE**

Closed Session deliberation decision announced by Sr. Assistant City Attorney Annuitant Bruce Soublet. The Personnel Board Members voted 2-1, with Chair Early and Board Member Pines voting in favor of the City of Richmond; Board Member Worthy voted in favor of grievant. Since the grievant, employee Martin, bore the burden of proof, the grievance is denied. Findings will be prepared in writing, signed, and issued by the Personnel Board.

Awaiting arrival of court reporter – Break was taken.

10. **CONSIDERATION OF PROBLEMS AND REPORTS**

- a. RPOA Grievance Appeal Hearing continued from February 24, 2022

Grievance Hearing begins at 6:08 p.m.

Counsel Pam Lee reminded all that the hearing is an evidentiary hearing quasi-judicial and to refrain from using the Zoom chat feature, which is not part of the recording, in order to preserve evidence and facts presented.

After hearing witness testimony, discussion ensued on the submittal of post hearing briefs. It was agreed that the City of Richmond and the RPOA grievant would each submit their post hearing brief to Dorothy Mandujano in Human Resources Department on a straight hearing schedule at 45 days without rebuttal.

First business day at 45 days from hearing is Monday, June 13, 2022.

14. **ADJOURNMENT**

Meeting adjourned at approximately 8:32 p.m.

Dorothy Mandujano

From: Cordell Hindler
Sent: Friday, April 22, 2022 4:18 PM
To: Personnel Board
Subject: Public Comments

This email originated from outside of the City's email system. Do not open links or attachments from untrusted sources.

Good Evening Chair Early, Board Members and Staff, I have a couple of items to place on the May 26th Agenda:

1. Approval to Retitle Accounting Manager to Deputy Director of Finance { Finance Department}
2. Approval to Revise the Existing Classification of Chief of Staff - Office of the City Manager

I had a Conversation with the Finance Director and she agrees that this position is Needed.

Sincerely
Cordell



STAFF REPORT

PERSONNEL BOARD

DATE: May 26, 2022

TO: Chair Early and members of the Personnel Board

FROM: Anil Comelo, Interim Human Resources Director

SUBJECT: ELECT PERSONNEL BOARD CHAIR AND VICE CHAIR

BACKGROUND:

September 23, 2021, annual election of Chair and Vice Chair was adopted by the seated Personnel Board Members.

RECOMMENDATION:

ELECT Personnel Board Chair and Vice Chair.

ANALYSIS:

In June 2021, Chair Early's term expired but Chair Early continued to serve until a replacement was seated. On March 15, 2022, two Personnel Board Members were appointed by City Council, one as a successor to Chair Early's seat. Chair Early continued to serve through April 2022 as a participant in the ongoing hearings of two grievances. Hence an election was not carried out at the first meeting of the calendar year as per the adopted Election Procedures.

CONCLUSION:

The Human Resources Department is recommending the election of a Chair and Vice Chair as per the procedures for annual election adopted in September 2021.

Analyst: Dorothy Mandujano, Administrative Services Analyst

Attachments: Procedures for Annual Election of Chair and Vice Chair

City of Richmond Personnel Board
Procedures for Annual Election of Chair and Vice Chair

The purpose of this procedure is to establish a process for the annual election of the Chair and Vice Chair of the Personnel Board.

1. At the first regular meeting of the calendar year, a Chair and Vice Chair shall be elected by the majority vote of the Board present.
2. The newly elected Chair shall preside for one year.
3. The newly elected Vice Chair shall perform all the duties of the Chair in his or her absence or inability to act.
4. In the absence of both the Chair and Vice Chair, the Board Members present shall elect a Chairperson pro tem.
5. After the Chair and Vice Chair have been seated, the remaining Board Members shall select their respective seats in the order of their relative seniorities in office and occupy them until the next regular reorganization of the Personnel Board; however, any two Board Members may change seats at any time by mutual consent.

Adopted: 9/23/2021



STAFF REPORT

PERSONNEL BOARD OR DEPARTMENT

DATE: May 26, 2022

TO: Members of the Personnel Board

FROM: Anil Comelo, Interim Deputy City Manager

SUBJECT: CONSIDER AND SCHEDULE a Personnel Board Hearing on an appeal of a grievance alleging violation of a collective bargaining agreement (Employee P)

BACKGROUND

An employee filed a grievance alleging that the City of Richmond has violated a provision in the employee's collective bargaining agreement. The employee, dissatisfied with the answer to the grievance and having completed the preceding grievance steps, is continuing the grievance appeal to the Personnel Board.

RECOMMENDATION

The Director of Human Resources recommends that the Personnel Board schedule a hearing in the matter of the Employee P alleging that the City of Richmond has violated the collective bargaining agreement between the City and RPOA. Section 30 of the MOU affords the RPOA the opportunity to request a Personnel Board hearing to adjudicate an unresolved grievance. In a letter dated September 10, 2021, the RPOA filed a Step 5 grievance on behalf of member Employee P concerning the City's violation of employee's rights under Section 23 of the MOU ("Vacation"). MOU Section 23 affords POA members the right to accrue annual vacation hours based on years of service. As relevant for this grievance, Section 23 affords members with 13 to 20 years of service 160 hours of annual vacation accrual. (MOU Sec. 23.2.). The grievance was initiated at Step 5 because of previous unsuccessful efforts to resolve the matter with the City Attorney's Office. The Hearing would be held pursuant to Personnel Rule IX Appeals-Hearings.

Recommended Board action is:

1. Schedule the hearing for a special meeting or for a time following the conclusion of the Board's regular meeting, whichever date is agreed upon.
2. Affirm the burden of proof obligation and the Board's procedures and protocols.

Personnel Board Staff Report

3. Provide the employee or her representative and the City's representative a copy of this Personnel Board staff report.

DISCUSSION

Employee P filed a grievance alleging violation of the collective bargaining agreement between the City and RPOA. The grievance was heard in accordance with the collective bargaining agreement. The employee, dissatisfied with the grievance replies, is appealing the City Manager's or designee's written response with said appeal to the Personnel Board in accordance with Personnel Rule IX.

Burden of Proof and Order of Presentation

The order of presentation of the appeal shall be as follows:

- a. Where the appeal is based upon an action initiated by the appointing authority (e.g., termination, discipline, suspension), the appointing authority has the burden of proof and presents evidence first.
- b. Where the appeal is based upon an action initiated by the employee (e.g., based on alleged discrimination, rules violation), the employee has the burden of proof and presents evidence first.
- c. The party having the burden of proof is the moving party. The other party is the responding party.

Procedures

- a. Introduction of item by Board
- b. Appellant's opening statement
- c. Respondent's opening statement
- d. *Presentation of evidence by Appellant moving party
- e. *Presentation of evidence by Respondent responding party
- f. Presentation of rebuttal evidence, if applicable
- g. Presentation of surrebuttal evidence, if applicable
- h. Appellant's Moving party's closing statement
- i. Respondent's Responding party's closing statement
- j. Personnel Board discussion and vote

*The following rule was approved by the Personnel Board Members at the March 27, 2014, Personnel Board Meeting: "Any party that wishes to offer any document in evidence at a Personnel Board hearing shall deliver such document or documents to the Secretary of the Board, and to the other side, not less than five business days before the hearing. No documents offered at the hearing that were not submitted within such time shall be considered by the Board, absent a showing of good cause why such document or documents were not submitted in a timely manner consistent with this rule."

Personnel Board Staff Report

Eight (8) copies are to be furnished to the Secretary of the Board (Director of Human Resources).

Public Hearings

- a. General Rule – All hearings shall conform to the requirements of Government Code Section 54950 *et seq.*, as those sections now exist or as they may be amended, supplemented, or renumbered.

Whenever a disciplinary action hearing is to be held, the Secretary to the Board shall notify the employee requesting the hearing and the appointing authority or officer from whose action the appeal is being taken of the time and place of the hearing. The Secretary to the Board shall also notify the employee of their right to have the complaints or charges brought against the employee heard in an open session rather than a closed session pursuant to the requirements of Government Code Section 54957.

- b. Closed Session – Disciplinary action hearings conducted by the Board shall be closed, subject to the employee's right to have the hearing conducted in an open session. Where the hearing or any part thereof has been closed, no person other than the employee, the appointing authority, and their respective representative and such individuals as specifically authorized by the Board shall be present. (Members of the Board, the Board's counsel, Secretary to the Board, recording secretary, and if applicable transcriptionist or court reporter shall remain present.)
- c. Employee's Request for Closed Session – Where the hearing or any part thereof has been held in an open session, an employee shall have the right to request, at any stage of the proceedings, that the Board conduct the proceedings in a closed session. When such a request has been made, the Board shall consider it and determine the issue by a motion and vote.

Findings and Decision

When submitted, the Board shall retire to a closed session to weigh the evidence and discuss the merits and make its decision (by motion). No persons other than Board members and the Board's counsel shall be present. Upon completion of such deliberations, the Board shall return to public or closed meeting, whichever is applicable, and the Board's vote shall be announced.

CONCLUSION:

The Director of Human Resources recommends that the Personnel Board schedule a grievance appeal hearing and that notice of the hearing date and procedural matters are provided to the employee and the City.



STAFF REPORT

PERSONNEL BOARD OR DEPARTMENT

DATE: May 26, 2022

TO: Members of the Personnel Board

FROM: Anil Comelo, Interim Deputy City Manager

SUBJECT: CONSIDER AND SCHEDULE a Personnel Board Hearing on an appeal of a grievance alleging violation of a collective bargaining agreement (Employee T)

BACKGROUND

An employee filed a grievance alleging that the City of Richmond has violated a provision in the employee's collective bargaining agreement. The employee, dissatisfied with the answer to the grievance and having completed the preceding grievance steps, is continuing the grievance appeal to the Personnel Board.

RECOMMENDATION

The Director of Human Resources recommends that the Personnel Board schedule a hearing in the matter of the Employee T alleging that the City of Richmond has violated the collective bargaining agreement between the City and RPOA. Section 30 of the MOU affords the RPOA the opportunity to request a Personnel Board hearing. In a letter dated April 8, 2022, the RPOA filed an appeal of a suspension and demotion on behalf of member Employee T to request the removal of suspension and removal from specialty assignment be overturned. The Hearing would be held pursuant to Personnel Rule IX Appeals-Hearings.

Recommended Board action is:

1. Schedule the hearing for a special meeting or for a time following the conclusion of the Board's regular meeting, whichever date is agreed upon.
2. Affirm the burden of proof obligation and the Board's procedures and protocols.
3. Provide the employee or her representative and the City's representative a copy of this Personnel Board staff report.

Personnel Board Staff Report

DISCUSSION

Employee T filed a grievance alleging violation of the collective bargaining agreement between the City and RPOA. The grievance was heard in accordance with the collective bargaining agreement. The employee, dissatisfied with the grievance replies, is appealing the City Manager's or designee's written response with said appeal to the Personnel Board in accordance with Personnel Rule IX.

Burden of Proof and Order of Presentation

The order of presentation of the appeal shall be as follows:

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CONCLUSION:

The Director of Human Resources recommends that the Personnel Board schedule a grievance appeal hearing and that notice of the hearing date and procedural matters are provided to the employee and the City.