

AGENDA

Wednesday, February 18, 2015

City of Huntington Beach PERSONNEL COMMISSION

5:30 PM - Meeting Room B-8
Civic Center - 2000 Main Street
Huntington Beach CA 92648

MEETING ASSISTANCE NOTICE - AMERICANS WITH DISABILITIES ACT

In accordance with the Americans with Disabilities Act the following services are available to members of our community who require special assistance to participate in Personnel Commission meetings. If you require special assistance, 48-hour prior notification will enable the city to make reasonable arrangements. To make arrangements for an assisted listening device (ALD) for the hearing impaired, American Sign Language interpreters, a reader during the meeting and/or large print agendas, please contact the City Clerk's Office at (714) 536-5227, or request assistance from staff at the meeting.

1. CALL TO ORDER

Commissioners: Elford, Inglee, Rivera, Storm, Thompson

Staff Liaison: Ken Domer, Assistant City Manager

Also present:

Michele Warren, Secretary to the Personnel Commission/Director of Human Resources

Mike Vigliotta, Chief Assistant City Attorney

JoAnn Diaz, Principal Human Resources Analyst

Sandy Henderson, Personnel Analyst

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS

The Personnel Commission welcomes public comments on all items on this agenda or of community interest. We respectfully request that this public forum be utilized in a positive and/or constructive manner. Please focus your comments on the issue or problem that you would like to bring to the attention of the Personnel Commission. Negative comments directed at individuals are not acceptable.

Three (3) minutes per person. Time may not be donated to others. No action can be taken by the Personnel Commission on this date unless agendaized. This is the time to address the Personnel Commission regarding items of interest or on agenda items other than public hearings.

4. APPROVAL OF MINUTES

- Meeting of January 21, 2015

For questions, please contact Sandy Henderson at (714) 960-8828

5. PRESENTATION ON PERSONNEL COMMISSION PROCEDURE FOR REVIEW OF NON-DISCIPLINARY GRIEVANCES

6. LABOR RELATIONS UPDATE

7. SECRETARY'S REPORT

8. COMMENTS FROM COMMISSIONERS

Announcements, brief report regarding Commissioner activities, ask questions for clarification, request information from Staff, direction to Staff regarding a future agenda item or for the provision of information for a future meeting.

9. ADJOURNMENT

Meeting adjourned to the next regularly scheduled meeting of March 18, 2015.

ITEM # 4

MINUTES

Wednesday, January 21, 2015

City of Huntington Beach PERSONNEL COMMISSION

5:30 PM - Meeting Room B-8
Civic Center - 2000 Main Street
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Pending approval by Personnel Commission at the meeting on December 17, 2014
(These minutes are not verbatim. A recording of the meeting is available in the Human Resources Division, lower level of City Hall, for one year following meeting date.)

CALL TO ORDER

Commissioner Elford called the Commission meeting to order at 5:36 PM.

ROLL CALL

Commissioners present: Elford, Inglee, Rivera, Storm, Thompson

Commissioners absent:

Others Present:

Michele Warren, Secretary to the Personnel Commission/Director of Human Resources

Ken Domer, Assistant City Manager

Mike Vigliotta, Chief Assistant City Attorney

Sandy Henderson, Personnel Analyst

PUBLIC COMMENTS

None

APPROVAL OF MINUTES

A motion was made by Commissioner Thompson and seconded by Commissioner Rivera to approve the minutes for the January 21, 2015 meeting.

VOTE:	The motion was carried
AYES:	5
NOES:	0
ABSENT:	0
ABSTAIN:	0

APPROVAL OF REVISED RECOMMENDED HEARING OFFICERS LIST

A motion was made by Commissioner Inglee and second by Commissioner Thompson to approve the Recommended Hearing Officer list amended January 21, 2015 as presented.

VOTE:	The motion was carried
AYES:	5
NOES:	0
ABSENT:	0
ABSTAIN:	0

LABOR RELATIONS UPDATE

Michele Warren, Director of Human Resources, stated that negotiations continue with the Surf City Lifeguard Employees Association (SCLEA).

SECRETARY'S REPORT

Ms. Warren announced the new Personnel Commission council liaisons are Billy O'Connell and Dave Sullivan.

Ken Domer, Assistant City Manager, announced that the Strategic Planning Retreat will be held on Friday, January 23, 2015 at the Central Library. The public is invited and he encouraged the Personnel Commissioners to attend.

COMMENTS FROM COMMISSIONERS

Chair Elford requests an updated grievance report for the next meeting.

ADJOURNMENT

The meeting adjourned at 5:45 PM to the next regularly scheduled meeting of February 18, 2015.

ITEM # 5



City of Huntington Beach

Personnel Commission Procedural Review for Non-
Disciplinary Grievances

What is a Grievance?

- **Basic Principles of a Valid Grievance**
 - Timely Filed
 - Accurately identifies Personnel Rule/MOU/Department policy/ provision (allegedly) breached
 - Provides factual evidence of incident/occurrence
 - Not based on emotion/opinion
 - The burden of proof for a Non-Disciplinary grievance is on the GRIEVANT

Non-Disciplinary Grievance

- Non-Disciplinary – Personnel Rule 19
- **19-2. DEFINITION.**
 - For the purpose of this rule, a grievance is a dispute concerning the interpretation or application of any provision of the city's Employer-Employee Relations Resolution, or any provision of this resolution or any departmental rule governing personnel practices or working conditions, with the exception of matters excluded by Section 19-3.

Grievance Process

- **Non-Disciplinary – 5 Steps**

- Step 1: Informal/Optional – Discussion with immediate supervisor within 10 days of awareness of grievance subject matter
- Step 2: Formal – Discussion with immediate supervisor within 5 days of Step 1 or within 10 days of occurrence of which gives rise to grievance
- Step 3: Department Head
- Step 4: City Manager
- Step 5: Personnel Commission

Personnel Commission Hearing Procedures

- ❖ Step 5 procedures in lieu of a hearing officer
- ❖ Each party has the right to representation
- ❖ Hearing shall be recorded by court reporter (unless waived by both parties)
- ❖ Commission can compel witnesses and the production of evidence
- ❖ Chair may set a pre-hearing conference 14 days prior to hearing
- ❖ Commission may order a briefing by both parties, all parties must be served any briefs submitted
- ❖ Hearings shall be held in closed session

Personnel Commission Hearing Procedures

- Civil hearing rules of evidence shall apply in general terms
- Hearing to be conducted in a manner most conducive to the determination of truth
- Any relevant evidence is admissible
- Hearsay is admissible only to supplement or explain other evidence, it is not sufficient in itself
- Rules of evidentiary privileges effective to the extent recognized in civil actions
- Irrelevant, cumulative and unduly repetitious evidence may be excluded by the Chair
- The Chair shall rule on the admissibility or inadmissibility of evidence and may seek assistance of the legal advisor

Personnel Commission Hearing Procedures

- ✓ Chair may elect to disallow oral presentation and require both parties to submit written statements in lieu thereof
- ✓ The Appellant (Grievant) shall first be permitted to make an opening statement
- ✓ The Respondent shall then be permitted to make an opening statement which may be reserved until presentation of the case
- ✓ The Appellant (Grievant) shall present the case as to why the grievance should be granted
 - ✓ *Respondent may cross examine Appellant's witnesses*
 - ✓ *The Commission has the right to question each Appellant witness following direct and cross examination*

Personnel Commission Hearing Procedures

- ✓ Respondent shall present its case as to why the grievance should be denied
 - ✓ *The Appellant shall have the opportunity to cross examine each of the Respondent's witnesses*
 - ✓ *The Commission reserves the right to question each of the respondent witnesses*
- ✓ The parties may proceed in the same order if they elect to offer rebuttal evidence and the accompanying cross examination of rebuttal witnesses
 - ✓ *The Commission reserves the right to question each rebuttal witness*

Personnel Commission Hearing Procedures

1. The Appellant shall give its closing argument
2. The Respondent shall give its closing argument
3. The Appellant, having the burden of proof is allowed a short rebuttal argument

Personnel Commission Hearing Procedures

- Exhibits shall be marked numerically by Appellant and alphabetically by Respondent*
- Exhibit copies shall be provided to all Commissioners, the legal advisor, and the Commission Secretary as the custodian of records, including a log thereof
- Witnesses must be properly sworn to testify under penalty of perjury upon oath or affirmation
- Upon the motion of either party witnesses who have not yet testified shall be excluded from the hearing

Personnel Commission Hearing Procedures

- Burden of proof is upon the Appellant to show by preponderance of evidence that the non-disciplinary grievance should be granted
- Failure to prove there is sufficient evidence to grant the grievance shall result in the grievance being denied

Personnel Commission Hearing Procedures

- Commissioners shall retire to executive session to deliberate after receipt of all evidence, arguments and oral testimony
- Commissioners and legal advisor only in executive session
- No discussion prior to executive session
- During deliberation Commission shall discuss evidence and determine relevance and weight thereof, including witness credibility
- Commission shall determine if the facts preponderate that there is reasonable and sufficient cause to grant the grievance

Personnel Commission Hearing Procedures

1. After the Commission has reached a determination, the Chair shall reconvene the closed session hearing and announce either the granting or denial of the grievance
2. The Secretary shall poll each Commissioner as to whether there is concurrence with the announced determination
3. The Chair will direct the legal advisor to prepare written findings and conclusions and a date in the future when the written findings can be reviewed and adopted by the Commission
4. After adoption of the written findings, the Secretary shall serve a copy on each of the parties
5. The Commission's determination is the final administrative action regarding the grievance

Questions?