

**CITY OF GLENDALE  
PERSONNEL BOARD BUSINESS MEETING**

**November 18, 2009**

**Glendale City Hall  
Human Resources Training Room  
5850 West Glendale Avenue  
Glendale, Arizona 85301**

**OPEN SESSION**

**MEMBERS PRESENT:**

Terri Leon, Chair  
Gary Sherwood, Vice Chair  
Roberta Podzius  
Al Lenox  
Ferne Ridley

**STAFF PRESENT:**

Alma Carmicle, HR Director and Board Secretary  
Naomi Jackson, Human Resources Program Manager  
Lorena Sanchez, Human Resources Generalist

**OTHERS PRESENT:**

Nicholas DiPiazza, Deputy City Attorney

**CALL TO ORDER AND ROLL CALL**

Terri Leon, Chair, called the Personnel Board Business Meeting to order at 6:15 p.m. on Wednesday, November 18, 2009. Roll call was taken.

**Purpose of the Meeting**

The Board voted unanimously to approve minutes for Personnel Board Business meeting previously held on August 19, 2009.

Alma Carmicle, Human Resources Director, advised the Board of the changes to the Personnel Board Hearing Process as a result of the changes to the Arizona Revised Statutes as it pertains to Law Enforcement Officers.

Terri Leon, Board Chair, asked for clarification regarding the reading of the *Burden of Proof* during the hearing. Ms. Carmicle and Mr. DiPiazza, Deputy City Attorney, both agreed the Burden of Proof should be read verbatim. Mr. Carmicle stated that is best since the hearings are held in open session and the audience may consist of both employees and the public who are forming and opinion of the process. Mr. DiPiazza indicated since the Personnel Board Hearing is often the last step in the disciplinary process, it is important to have an accurate record. Ms. Leon commented that the

content of the Burden of Proof was very long. Ms. Carmicle stated she would confer with Mr. DiPiazza to review the paragraphs they feel are absolutely pertinent to be read. She stated after their review they would get back with the Board.

Ms. Carmicle presented Mr. DiPiazza to the Board. Mr. DiPiazza explained he would be giving the Board an overview of the Personnel Board Hearing Process from a lawyer's perspective. Mr. DiPiazza explained the Attorneys in the City Attorney's Office, serve a dual role. He explained they are the legal advisor to the Board, and if procedural questions arise, they were available to advise the Board. Mr. DiPiazza stated, secondly, they represent the City if the Appellant is represented by an Attorney. He stated in some cases, individuals choose not to have an Attorney. He said in those cases the City has taken the position, that if an Appellant does not have an Attorney, the Department Head will respond and the City Attorneys will prep the Department Head for the hearing. Mr. DiPiazza stated the City Attorneys participate in the preparation for the hearing and provide support during the hearing. He explained that although this may seem unfair, it is absolutely legal, since everyone is entitled to retain an Attorney. He further stated while it is up to the Appellant to get an Attorney, it is prudent for them to do so.

Mr. DiPiazza discussed the Personnel Board's part in the due process. He explained discipline can be a complicated process. He explained that Human Resources participates from the beginning of the disciplinary process in consultation with the Department. He explained the City Attorney's Office does not get involved until the process gets to a hearing. Mr. DiPiazza stated the Procedural Due Process and the City Policy has withstood the test of time. He stated the Board must ensure the role they perform is consistent with the due process.

Mr. DiPiazza spoke to the Board regarding an employee's right to a Notice of Intent, their right to respond to the intent, the Notice of the disciplinary action and the Department Head's decision to move forward. Mr. DiPiazza covered what testimony the Board should listen to and what testimony they are not required hear. Mr. DiPiazza stated Appellants do not have a right to talk about things not associated with the issue of the hearing.

Discussion took place regarding the exhibits and the Human Resources Director's delegated role to review and determine what exhibits will be allowed. Ms. Carmicle commented regarding documents and the relevancy and substance of those documents. She advised the Board for any particular hearing there may be many documents that are not seen by the Board. However, Ms. Carmicle stated her preference is to allow the exhibits and give the Attorneys an opportunity to object if they disagree an exhibit should be included. Ms. Carmicle stated if the Attorneys and Appellant receive their hearing books and they object to something that has been included, they have the option of contacting Human Resources. She stated Human Resources will contact the Board Chair to make the decision as to whether or not the exhibit will be included. Ms. Carmicle stated Human Resources will then communicate the Chair's decision to both parties. Ms. Carmicle reiterated the Chair is the final decision-making authority regarding what is included. Mr. DiPiazza stated, in regard to the hearing, we want to reach a fair result and preserve a good record.

A discussion was held regarding objections. Mr. DiPiazza stated that objections can help make for a good process. He stated both sides may make objections and it should not be held against them. Mr. DiPiazza explained to the Board the different types of objections that may be presented. He discussed relevance and materiality. He stated an objection may be based on relevance—does it have anything to do with this case. He stated objections may also be based on material evidence—does it make a difference; is it immaterial to the legal decision that has to be made. Mr. DiPiazza explained if an objection is made and sustained by the Chair, the Board has a responsibility to disregard it in their decision making.

Mr. DiPiazza spoke briefly with the Board regarding fairness and the number of cases sustained for the City. Mr. DiPiazza stated the City has an excellent Human Resources Department and qualified competent Managers. He stated they work together to follow the rules and ensure the procedural due process occurs.

Mr. DiPiazza discussed the role of the Board in determining the following:

1. Was the action of the City based on political, religious or racial prejudice?
2. Did the City follow its policies and procedures that provide employees with the right to appeal certain disciplinary actions?
3. Was there just cause to take disciplinary action based on the stated violations of the Human Resources Policy?
4. The Board will recommend to sustain or not sustain the action of the appointing officer based on the facts and information presented to the Board.

Ms. Carmicle stated the City Manager is the Administrative Officer and the Board is making a recommendation. Ms. Carmicle reiterated the City Manager does take into consideration the Board's recommendations even if they are different from what the Department has recommended. Ms. Carmicle explained when the Department Head comes to Human Resources, we offer advice. They make the final decision. Ms. Carmicle discussed the selection and qualifications of the Board members. She stated based on the expertise, the Board provides a "second set of eyes" to the decisions made regarding discipline. Mr. DiPiazza spoke briefly on the time limits and explained there is not always time to present everything.

The Board expressed they felt the information presented was very helpful.

### **Adjourn**

Terri Leon requested a motion to adjourn. Gary Sherwood made a motion to adjourn the Personnel Board Business Meeting. Al Lenox seconded the motion. The meeting adjourned at 7:15 p.m.

Submitted by:

A handwritten signature in black ink, appearing to read 'Alma Carmicle', with a long horizontal flourish extending to the right.

Alma Carmicle  
Board Secretary