

MINUTES OF THE MEETING OF THE MURRAY CITY  
PERSONNEL ADVISORY BOARD  
February 9, 2012

Members of the Murray City Personnel Advisory Board met on Thursday, February 9, 2012 at 9:00 a.m. in the Council Chambers.

Those present were: Jeff Jensen, Bob Parry, Robbie Robertson, Mike Terry, Mayor Snarr, Jan Wells, Frank Nakamura, Gil Rodriguez, Pete Fondaco, Darren Wightman, Jackie Sadler, and Robyn Colton.

Excused: Nathan Pentico

**GENERAL DISCUSSION**

Mike began with an overview of the current process of the Public Safety grievance and appeals process. He explained that for disciplinary issues of less than two days, the process for filing a grievance or appeal is that the employee talks to their Department Head, then talks with Human Resources and then to the Personnel Advisory Board and the Personnel Advisory Board would make a ruling. For disciplinary issues of more than two days, demotion or termination, the process is the same, but once past Human Resources, the City would convene a special appeals board. Having this appeals board has been problematic so we are recommending some changes as to who hears the final appeal once it gets past Human Resources. Mike turned the time over to Frank to explain the changes in greater detail.

Frank explained that under Utah law the City is only required to have appeals of discipline that is more than two days without pay, discharges, and demotions. The City also allows a process for appealing discipline of less than two days. These processes have been separated in the past as to who hears the final appeal, but the process for the appeals of greater discipline has become burdensome. The first thing we noticed was that the list of arbitrators available to comprise the appeals board were mainly used by the court to handle family law matters such as divorce and child support. It was hard to find someone with employment law experience. The second thing we noticed was the expense. The third was issues in scheduling a date where all three attorneys could get together, sometimes taking months. We believe that the Personnel Advisory Board is fully capable of hearing these matters. The Personnel Advisory Board would be considered the appeals board as required under Utah law. The decisions on these disciplines would be appealed to the Utah Court of Appeals and the record of the Personnel Advisory Board is what they would review.

Frank also explained that we added in the standard of review for clarification as to the authority of the appeals board. The appeals board can only agree or not agree, there can be no modification. This was added in so there would be no misunderstanding as to the authority of the appeals board. Clarifications were also added in to explain what would happen should the appeals board overturn the decision, stating that the employee would be reinstated to their same job and would be awarded back pay during their absence. Mike added that we have also asked to extend the time from 20 days to 30 days in order to schedule the hearing.

Speaking for the Personnel Advisory Board, Jeff stated that he is comfortable with these changes and is confident that the Board could handle these matters if and when needed. Robbie asked if there would be someone provided to make the record for the appeals board. Frank stated that a court reporter would be provided. Robbie was also concerned should the Board get sued, would the City represent them. Frank said that the City must represent all their employees, boards,

commissions and even volunteers. Bob's only concern was that if one of the Board members had a personal relationship with the employee, could two of them constitute the appeals board. The answer was yes, but there would have to be a unanimous vote of those two members. Bob asked if the City provides training for management to avoid mistakes on the management side. Mike said that whenever a manager is considering disciplinary action, we have them come to Human Resources and walk through that process with them. As long as the department is coming to Human Resources with these issues, there shouldn't be any problems.

Gil stated that the Fire Department was concerned with the criteria of how we would replace a member of the Personnel Advisory Board. He is happy with those serving on the board now, but not sure how this would work out in the future. Frank explained that the risk exists with the process we have now, maybe even worse because each party is selecting someone that will better represent their side. Pete said that there is no difference with this process than when we had Civil Service because members of the Civil Service were appointed by the mayor. The mayor's appointments to the Personnel Advisory Board have to be approved with the advice and consent of the City Council which provides checks and balances to the process. The ordinance states that we are looking for appointees with employment/personnel experience. Darren Wightman was concerned with the fact that if all the members on the board come from an employment background, who maybe have had experience with problem employees, would they be quicker to side with the employer. He also asked for clarification to Section 12-5 Step 4 where it states that the employee "shall be entitled to appear in person and to be represented by counsel". Frank explained that the employee would bear the cost of having counsel and that the City could not deny an employee the right to be represented by counsel.

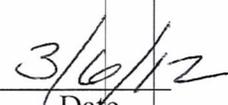
Representing the Police Department, Pete did not have any problems or concerns with the changes. He has been through a grievance with the current system. Through the current system, he found it disheartening to have two of the appeals board attorneys with expertise in mediation in divorce. The City ended up having to school the attorneys in employment law which he believed was not a good situation for an employee or management. The process also dragged on forever.

In speaking with Darren Wightman, Frank saw the need to make an additional clarification to the period of two days and add "or 16 hours" to cover those Police and Fire employees who may not work 8 hour shifts. It was decided that we would move forward and the employee representatives would take the information from this meeting back to their people. Robyn will schedule the next meeting after February 21.

Next Meeting: Schedule as needed.

**ADJOURNMENT:** The meeting adjourned at 10:00 a.m.

  
Jeff Jensen, Chairperson

  
Date