



PERSONNEL BOARD AGENDA

November 13, 2023 at 12:00 PM

City Hall Conf. Room 224/Zoom Webinar

City Hall Conference Room 224 located at 155 Heritage Way

or via Zoom: <https://juneau.zoom.us/j/82353455966>

A. ROLL CALL

B. APPROVAL OF AGENDA

C. APPROVAL OF MINUTES

1. June 23, 2022 Personnel Board Meeting Minutes - Draft

D. AGENDA TOPICS

2. Election of Chair & Vice Chair

3. Board Education - CBJ Law Dept.

4. Roles & Responsibilities of the Personnel Board - HRRM Director Dallas Hargrave

5. Approval of Annual Report 2022/2023

E. NEXT MEETING DATE & FUTURE AGENDA ITEMS

F. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.gov.

City and Borough of Juneau Personnel Board

Thursday, June 23, 2022, 12:00 p.m.

Via Zoom Webinar

DRAFT MINUTES**I. Call to Order**

The meeting of the Personnel Board held virtually via Zoom webinar was called to order by Chair Rodney Hesson at 12:04 p.m.

Board Members Present: Cindy Spanyers, Nancy Sutch, Rodney Hesson, Ken Southerland and Mila Cosgrove

Members absent: None.

Staff Present: Human Resources/Risk Management (HRRM) Director Dallas Hargrave, Municipal Clerk Beth McEwen, Municipal Attorney Robert Palmer, Assistant Attorneys Benjamin Brown, Sherri Layne and BRH Mary Francis

Due to some technical difficulties, it was decided for Mr. Palmer to start the presentation under agenda item III and the board would come back to the other agenda topics after that presentation.

II. Approval of Minutes

May 21, 2023 Personnel Board Meeting Minutes

MOTION, by Ms. Spanyers, to approve the minutes with a small correction to the Good of the Order section on the bottom of page 3 and asked for unanimous consent. Hearing no objection, the minutes were approved as corrected.

III. Roles and Responsibilities of the Personnel Board

Municipal Attorney Robert Palmer thanked all the Personnel Board members for their service. He then provided a presentation on the scope, role, and duties of the board which focused on the CBJ Charter, CBJ Code Title 44, Resolution 2569 and other rules such as the Open Meetings Act, Public Records Act, Conflict of Interest Code, and the Quasi-Judicial Process. Mr. Hargrave commented that the scope of the board is limited to CBJ and BRH personnel matters but does not include the School District employees. Mr. Palmer agreed noting that because the School Board is separately elected, the Juneau School District labor negotiation do not fall under the purview of the Personnel Board.

In addition to many of the duties of the board, Mr. Palmer explained the process for any employee appeals as there may be an employee appeal on the horizon. He noted that there are specific code sections (CBJC 44.05.060(d) and one Personnel Rule (15 PR 025-030) and the Personnel Board Rules of Procedure (Res 2569 – Rule 9) that apply specifically

to employee appeals. The Personnel Board has the power to hear appeals re: Dismissal, Demotion, or Suspension of greater than 10-days. In such a case, the parties would be the City Manager and the Employee. He then went on to describe the timelines involved in this relatively informal process and what the potential remedies might be such as: Order reinstatement, Order back pay for an employee, or Order other appropriate actions (i.e. affirm management's actions).

Ms. Spanyers asked if the Personnel Board decisions could be appealed to another level. Mr. Palmer answered yes, that any appeals of a Personnel Board decision could be appealed to Superior Court. He also noted that the Personnel Board has a power that most other boards do not have. The Personnel Board can order the City Manager to do something such as pay backpay or require an employee to be reinstated.

Mr. Hargrave noted that with respect to scope, the process that Mr. Palmer described above is available to classified employees that are who are not in a bargaining unit, since employees who are in a bargaining unit have the grievance process available to them. He noted that this doesn't apply to union employees, exempt, or partially exempt employees. It does apply to those employees who are classified employees who have received a dismissal, demotion, or suspension greater than 10-days.

Ms. Sutch asked what type of the discretion the Personnel Board has in making its decision and whether it has to be an all or nothing decision or if the board has some discretion in modifying the action. She provided an example of a situation where someone's suspension was initially a 30-day suspension and she asked if the board would be able to rule on a suspension but make a ruling that a suspension of only 15 days rather than 30 days suspension was in order.

Mr. Palmer said that the code says the board can "order other actions" so that leaves it open to the board to have a lot of discretion in their rulings.

Mr. Palmer then covered the Labor Relations Code 44.10 that CBJ adopted in 1973 via Resolution 150 in which it opted out of the Public Employee Relations Act (PERA). He gave a high-level summary of what is in this CBJ Code as opposed to what was in the PERA. There was some Q&A about the PERA "opt out" discussions that have happened across the state of AK.

Mr. Palmer finished the labor relations section in speaking to the section in the Personnel Board Rules of Procedure that specifically address labor relations and the powers/duties of the board on those issues.

Mr. Palmer's presentation then touched on other rules that apply to the board such as the Open Meetings Act (OMA) and he noted that appeals are a quasi-judicial proceeding that are not subject to the OMA. Mr. Palmer stressed the importance of keeping emails to process only and not hitting "reply all" on any emails. Mr. Hargrave suggested that as the staff liaison to the board, he can serve as the hub for any emails that will keep the board from getting into any potential OMA violation.

Mr. Palmer touched on the Public Records Act (AS 40.24.110, Charter 15.7, CBJ 01.70). In general, the work and documents related to the board and considered open to the public upon request for public records. Mr. Hargrave asked if there is a disciplinary appeal and it ends up going before the Personnel Board, some of the documents that might usually be considered confidential, may no longer be considered confidential if the employee has appealed it to the Personnel Board. Mr. Palmer replied that in general that would be the case but there are some exceptions and if that situation comes up, he would be happy to go over those exceptions.

Mr. Palmer then covered the Conflict of Interest code. He spoke to the protections offered by the Code (01.45) provided they discuss it with the City Attorney and follow the recommendations of the attorney.

The final topic of Mr. Palmer's presentation covered the Quasi-Judicial/Appeal rules and specifically with respect to avoiding any ex-parte contact with any parties of an appeal that may be pending before the board. He also noted that anytime they have a quasi-judicial matter, they need to have a written decision that clearly articulates the reasons for the decision.

There being no questions from the board, the meeting then reverted back to the beginning of the agenda.

IV. Election of Chair / Vice-Chair

Mr. Hesson opened up nominations from the floor.

MOTION, by Ms. Spanyers to nominate Mr. Rodney Hesson as Chair of the Personnel Board. Ms. Sutch seconded the nomination and Mr. Hesson said that he would accept the nomination. There being no other nominations for the Chair and hearing no objections, Mr. Hesson was elected Chair of the Personnel Board.

Ms. Sutch noted for the record that she would be open to having someone else be considered for the Vice-Chair position but she would also be willing to continue if no other members wished to be Vice-Chair.

MOTION, by Ms. Spanyers to nominate Ms. Nancy Sutch as Vice-Chair of the Personnel Board, seconded by Mila Cosgrove. There being no other nominations for the Vice-Chair and hearing no objection, Ms. Sutch was elected Vice-Chair of the Personnel Board.

V. Agenda Items and Schedule for Next Meeting

Mr. Hargrave that when scheduling the annual meetings of the board in the future, he will try to reach out to the chair earlier in the year so that the meetings are not held during the summer.

Ms. McEwen noted that one item that will need to come before the board in the future but preferably near the end of the year would be the annual report.

Ms. Cosgrove asked if they wanted to go ahead and schedule their next meeting for sometime near the end of the year. Members discussed meeting availability and decided to tentatively schedule the next meeting for Wednesday, December 14.

VI. Adjournment

There being no further business to come before the Personnel Board, the meeting adjourned at 12:55 p.m.

Respectfully Submitted,

Elizabeth J. McEwen, MMC
Municipal Clerk

Personnel Board Training

Law Department
&
Human Resources and Risk Mgmt. Dept.

Topics

- CBJ Charter (1970)
- CBJC 44.05.060
- CBJ 44.10
- Res. 2569
- Open Meetings Act
- Public Records Act
- Conflict of Interest
- Quasi-Judicial Process

Charter: Personnel Board

- Charter is a local “constitution”
- Section 3.14:

The assembly shall appoint members of a personnel board, and by July 1, 1971, the assembly by ordinance shall provide a comprehensive personnel system, including but not limited to regulating all appointments, promotions, demotions, suspensions, and removals of municipal officers and employees on the basis of merit.

CBJC 44.05.060: Personnel Board

- 5 member board: 3 members needed for quorum and action
- Officers: Chair and vice chair, voted on annually
- Open Meetings Act, Robert's Rules, Personnel Rules
- Clerk & HRRM Director provides staff support
- Duties:
 - Determine units appropriate for collective bargaining
 - Certify or decertify organizations as exclusive representation
 - Conduct representation elections
 - Resolve disputes, including mediation and fact-finding
 - Determine and remedy unfair labor practices
 - Labor relations: hearings, orders, elections + CBJC 44.10 needs

Employee appeals

- Authority:
 - CBJC 44.05.060(d)
 - Personnel Rules: 15 PR 025-030
 - See Personal Board Rules of Procedure (Res 2569): Rule 9
- Hear appeals re Dismissal, Demotion, Suspension >10d
 - Parties: City Manager & Employee
 - Hearing timelines per 15 PR 030 (relatively quick process)
 - “informal” process
 - Remedies:
 - Order reinstatement
 - Order back pay for employee
 - Order other appropriate actions, (i.e. affirm management)

Labor Relations

- CBJ opted out of PERA (Res. 150 1973)
- CBJC 44.10 governs Labor Relations for CBJ:
 - Policy
 - Employee rights
 - Collective bargaining units
 - Negotiations
 - Mediation and factfinding
 - Assembly decision conclusive
 - Strike prohibited
 - Unfair Labor Practices
- Personnel Board Rules of Procedure (Res 2569 (2011))
 - More detailed rules to implement CBJC 44.10

Open Meetings Act

- **A.S. 29.20.020, A.S. 44.62.310, Charter 3.12(d)**
 - ❖ All meetings to be public
 - ❖ Public have an opportunity to comment at regular and special meetings
 - ❖ Executive session (i.e. appeal deliberation)

OMA: Best Practices

- ❖ OMA purpose is to ensure deliberations of a board are done in public.
- ❖ Minimize private Board member discussions.
- ❖ “Serial” meetings: Avoid using “reply all” in email.
- ❖ Reasonable notice of meeting.
 - *24 hrs. min., more notice for complex issues*
- ❖ Make sure agendas include location and time.
- ❖ Cure by completely redoing illegal action.

Public Records Act

- **A.S. 40.25.110, Charter 15.7, CBJ 01.70**
- Two big rules:
 - 1) Every person has the right to inspect public record unless an exception applies.
 - 2) Strong presumption in favor of disclosure
- Applies to emails, texts, documents, even if on your personal devices
- **Best Practice: keep work on work accounts (and on work devices)**

Conflict of Interest

You are a municipal officer

You are prohibited from using your position to:

- ❖ Gain a benefit
- ❖ Secure employment or contracts
- ❖ Take or withhold action if you have P/F interest
- ❖ Use CBJ time or equipment for P/F interest
- ❖ Vote or deliberate if you have a P/F interest

Conflict of Interest: **Best Practice**

- ❖ If in doubt, contact your attorney
 - **Shield:** If you act consistent with attorney advice, then you are immune from personal liability
- ❖ Close calls, disclose in meeting
- ❖ Public Trust=legal conflict of interest code + political conflict of interest

Quasi-Judicial/Appeals

❖ No ex-parte contact with parties

- When sitting as a judge, you cannot discuss with one side without the other side present.
- Grocery store, school events, etc.

❖ Written decision: Need to clearly articulate reasons for decision

Resources

- **Dallas Hargrave (HRRM Dir.)**
- **CBJ Law (586-5242)**
 - ❖ Nicole Lynch (ext. 4108)
 - ❖ Robert Palmer (ext. 4106)

City and Borough of Juneau Personnel Board References

Ordinance 94-12 An ordinance consolidating the Employee Relations Board and the Personnel Board. Pursuant to Section 3.14 of Charter.

Personnel Plan 44.05

44.05.060 Personnel Board

- a. Board Established
- b. Qualifications
- c. Meeting procedure
- d. Responsibilities
- e. Organization, quorum, and rules of order
- f. Assistance and personnel
- g. Duties of the personnel board
 - 1. Determining the units appropriate for collective bargaining;
 - 2. Certifying or decertifying of employee organizations as exclusive representatives;
 - 3. Conducting representation elections;
 - 4. Resolving disputes, including mediation and factfinding;
 - 5. Rules and regulations
- h. Labor Relations Policies
- i. Rules and Regulations

Labor Relations Plan 44.10

Personnel Board Rules of Procedure

- 1. Scope and Authority
- 2. Definitions
- 3. Administration and Meetings
- 4. Bargaining Units
- 5. Petitions for Representative Certification, Amendment of Representative Certification, and Decertification
- 6. Processing of Petitions
- 7. Investigation of Petitions
- 8. Recognition by Mutual Consent

- 9. Hearing Procedures
- 10. Elections
- 11. Mediation and Fact-finding
- 12. Complaint of an Unfair Labor Practice
- 13. Internal Conduct of Employee Organizations

CBJ Personnel Rules

15 PR 030. Appeals to Personnel Board

BRH Personnel Rules

2022 & 2023 COMBINED ANNUAL REPORT PERSONNEL BOARD

The Personnel Board is established in CBJ Code 44.05.060 “Personnel Board,” and is an appeal board consisting of volunteer members from the community with an interest in human resource issues and labor law. The board does not have a regular meeting schedule, but is called upon when matters arise which require board assistance and review.

The Board met once in 2022 and once in 2023 for an annual organizational meeting and training and no other matters were brought before the Board.

Members currently serving on the Board in 2023 (**in bold**) and those who were serving in 2022* are listed below:

**Rodney Hesson, Labor seat (Chair) Term expired 1/31/2023*

**Nancy Sutch, Management seat (Vice-Chair) Term expired 1/31/2023*

***Ken Sutherland, Management seat - current term expires 1/31/2025**

***Mila Cosgrove, Public seat – current term expires 1/31/2024**

***Cindy Spanyers, Labor seat - current term expires 1/31/2026**

Allison Radford, Management seat – current term expires 1/31/2025

Nadine Lefebvre, Labor seat – current term expires 1/31/2026

Respectfully submitted,



Beth McEwen, Municipal Clerk
CBJ Personnel Board
November 8, 2023