



**Personnel Appeals Board  
Board Meeting Agenda  
October 12, 2015  
6:00 PM  
Meeting Room 1**

- 1. Call to Order**
- 2. Roll Call**
  - A. Introductions of New Members***
- 3. Approval of Agenda**
- 4. Approval of Minutes**
  - 1. Personnel Appeal Committee Meeting Summary 9-15-2014**
- 5. Unfinished Business**
  - A. 2015 Annual Report to Mayor***
    - 1. FY2015 Personnel Appeals Board Annual Report**
- 6. New Business**
  - A. Presentation by Carl Lumley***
    - i. The Role and Responsibilities of the Personnel Appeals Board**
  - B. Election of Chair and Vice-Chair***
- 7. Business from Members**
- 8. Business from Staff Liaison**
  - A. Ethics Training Reminder - Multi-Purpose Room at 6 p.m.***
  - B. Proposed Personnel Policy & Procedures Manual Update***
    - 1. Draft Personnel Policy & Procedures Manual Section 13**
- 9. Adjourn**



## Personnel Appeals Board

SCHEDULED

STAFF REPORT

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Meeting: 10/12/15 06:00 PM  
Department: Personnel Appeals Board  
Category: Report  
Prepared By: Sharon Stott  
Department Head: Sharon Stott

## Personnel Appeal Committee Meeting Summary 9-15-2014

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## Personnel Appeals Committee Meeting Summary



Meeting Date: Monday, September 15, 2014  
 Time: 5:30 p.m.  
 Location: Meeting Room #2, Government Center  
 Date Prepared: September 16, 2014  
 Prepared By: Sharon Stott, Assistant to the City Administrator

**Members Present:** Committee members Lynn Berry (Chair), Mark Pasewark, Robert Haddenhorst (Vice Chair), Neal Breitweiser, Jack Gronneck, Tommy Taylor (Alternate)

**Member(s) Absent:** None

**Others Present:** Sharon Stott, Assistant to the City Administrator

### Call to Order

The meeting began at 5:34 p.m. A quorum was present.

### Approval of Meeting Summary

Members reviewed the meeting summary from the February 18, 2014. Sharon Stott noted an error in the minutes where it was stated “a council liaison” was one of the open positions on the committee. A council liaison is not applicable to the PAC per City ordinance. The PAC members agreed the reference should be deleted from the meeting summary.

Mr. Haddenhorst moved to approve the amended meeting summary from February 18, 2014. Mr. Pasewark seconded the motion. Motion passed unanimously.

### Timeline of Chairperson Activities Reviewed

Mrs. Berry provided a review of PAC activities from Fiscal Year (FY) 2014.

- On October 14, a meeting was held to distribute the “Citizens Guide to Boards, Committee and Commissions” and Mrs. Berry was elected as chair and Mr. Haddenhorst was elected as vice-chair. Immediately following the meeting, the PAC members attended the required biennial ethics training conducted by City Attorney Carl Lumley.
- In December 2013, Mayor Glantz called for a roundtable discussion of the City’s committee chairs to discuss each committee’s function, application of sunshine laws, attendance expectations and the role of the staff liaisons. Mrs. Berry was in attendance at the roundtable discussion.
- As a result of that discussion, Mrs. Berry requested that further education regarding policies and procedures for the entire PAC be arranged by Ms. Stott.
- On February 18, 2014, a PAC meeting was conducted with Mr. Lumley presenting to provide an overview of the role of the PAC as reflected in the summary of the February 18 meeting and as outlined in the Personnel Policy and Procedures Manual.
- There were no appeals submitted for PAC review in FY2014; and, subsequently, no other PAC meetings were held.

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- On May 22, 2014, Mayor Glantz sent a letter to committee chairs to submit an annual report to the City highlighting achievements and goals for FY2015 beginning July 1, 2014. (A copy of the annual report submitted by Mrs. Berry follows and was provided for review by members.)
- On June 23, 2014, the nominating committee met for the PAC for the appointment of new members. Mrs. Berry was in attendance. The meeting resulted in the appointment of the PAC's newest member Mr. Groneck and alternate member, Mr. Taylor.
- On the same date, a joint work session with the Council and committee chairs was held and Mrs. Berry shared the material in the annual report with Council members, thanking Mr. Lumley and Ms. Stott for their efforts.

### Proposed New Ordinance

City Council established a task force of Council members to re-evaluate all advisory boards, committees, commissions, and a task force. The purpose of this task force was to determine the long-term needs of the City and consider options to consolidate the committees, standardize number of voting members for all committees and/or re-assignment of roles/responsibilities.

Recommendations of the task force to City Council applicable to the PAC include:

- Name change from Personnel Appeals Committee to Personnel Appeals Board. A board has specific authority granted by city ordinance or statute to make legal decisions as opposed to the advisory authority of a committee.
- Membership will remain the same: five members with two alternates. A quorum consists of three members.
- Proposed ordinance emphasizes annual training regarding Robert's Rules of Order, public meeting requirements, meeting ethics, and understanding the roles and responsibilities of chair, vice-chair, staff liaison and council liaison (if applicable).
- Proposed ordinance codifies annual elections of chairpersons and a term limit for a chairperson to be no more than three consecutive years. Discussion included that this change will provide more leadership opportunities for other committee members and the generation of new ideas.
- Proposed ordinance codifies attendance requirement specifying that members must attend at least 50 percent of scheduled meetings each year; otherwise he/she may be removed by the same process as that by which they were appointed.

Mrs. Berry asked if there were any discussions about the ordinance. PAC continued discussion of a previous discussion from the meeting on February 18, 2014, pertaining to Ordinance 130.020 which currently states that no member of the PAC shall be a member of any local, state or national committee of a political party or elected officers of any partisan club organization. Committee members questioned the definition of what it means to be part of a political party. Two PAC members, Mr. Pasewark and Mr. Breitweiser, stated they are current members of local political clubs and have been so during the time they have served on the PAC. Mrs. Stott stated she would seek clarification with the City Administrator and the City Attorney as to what

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the ordinance means, and determine the next appropriate steps, if any, in regard to current membership.

### **Nominations for and Vote for Chair and Vice-Chair for FY2015**

Mrs. Berry asked for nominations for the position of chair. Mr. Neal Breitweiser moved to nominate Mrs. Berry as Chair. Mr. Haddenhorst seconded the motion. Motion passed unanimously.

Mrs. Berry asked for nominations for the position of vice-chair. Mr. Haddenhorst moved to nominate Mark Pasewark as vice-chair. Mr. Breitweiser seconded the motion. All approved. Motion passed unanimously.

### **Adjourn**

Mr. Pasewark motioned to adjourn the meeting at 5:53 p.m. Mr. Haddenhorst seconded the motion. Motion passed unanimously.

Respectfully submitted by:

Sharon Stott  
Assistant to the City Administrator

**Annual Report for 2013-2014**  
**Personnel Appeals Committee**

Committee Members: Lynn Berry, Chair; Robert Haddenhorst, Vice-Chair, Mark Pasewark; and Neal Breitweiser. Staff Liaison: Sharon Stott

Our committee has the unenviable role of helping to adjudicate appeals by employees of disciplinary actions from a City Department Head after unsuccessful appeal to the City Administrator. Fortunately for Creve Coeur, such an action has not been necessary this year. However, this does not mean that our committee has been entirely inactive.

We have a new staff liaison this year, Sharon Stott, who met with the committee first on October 14, 2013 during which Sharon distributed copies of *A Citizen's Guide to Boards, Commissions, and Committees* as amended by the City Council in January, 2012 and I was elected committee chairperson. I had previously served as Vice Chair and Committee member.

In January, at the mayor's meeting with the committee chairs, I realized that as a committee, myself included, we perhaps had a larger role than I had envisioned. I requested any materials that might be available to further define our role and any policies and procedures that needed to be followed in the event that an appeal would be forthcoming. Sharon forwarded the appropriate section of the handbook (*Section 13, Personnel Disciplinary Appeals*) that outlined our duties and I also read *Section 14, Employee Grievance Procedure*. After reading them, I was convinced that our committee needed some proactive training to understand the seriousness of our role and what our individual commitment would mean in the event of an appeal.

We convened a meeting on February 18, 2014 with three members present and one absent and found that we also had one member who had resigned and an alternate who had resigned. This, in itself, was disconcerting. Each member received a copy of Section 13 of the manual by email prior to the meeting. During the meeting Carl Lumley, the City Attorney, discussed the role of the Personnel Appeals Committee in detail, including the fact that we serve in a judicial capacity. It was interesting to note also that both the city and the employee can call witnesses and present supporting documents during the hearing and that we, as well as the employee, can request legal counsel if necessary. It was also important that all decisions we make shall be

in writing within 45 days after the conclusion of the hearing. I found this training to be invaluable, as did our other members, with many questions asked of Carl during the meeting.

I have asked Sharon to make the mayor and council aware of the vacancies on our committee of one member and two alternates (who would be very important during any hearing) and hope that citizens (especially any with employment law or employee relations experience) would volunteer.

While we seldom need to hear an appeal (a tribute to the city management staff), I feel our role is important and the education we received this year was invaluable. We thank Sharon and Carl for their help in this regard. Our goal for next year is to keep our committee informed of any changes in the employee handbook that would affect our role in the appeals process, to educate any incoming members, and to be able to serve effectively in our judicial capacity should the need arise. Thank you for this opportunity to serve the city.

*Lynn S. Berry*

Chairperson



## Personnel Appeals Board

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STAFF REPORT

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5.A.1

Meeting: 10/12/15 06:00 PM  
Department: Personnel Appeals Board  
Category: Report  
Prepared By: Sharon Stott  
Department Head: Sharon Stott

# FY2015 Personnel Appeals Board Annual Report

Mr. Barry Glantz, Mayor  
City of Creve Coeur

5/15/2015

Mr. Mayor:

I am pleased to provide you with the Annual Report below as requested:

Annual Report – Personnel Appeals Board (PAB)

We started the year on Monday, September 15, 2014 with our first meeting attended by all members and Sharon Stott, our staff liaison. At that meeting, we reviewed a timeline of the chairperson and committee activities for Fiscal Year (FY) 2014, discussed the proposed Bill No. 5511 amending provisions of the Municipal Code in Chapters 125 and 130 (including the fact that with the proposal we would be a Board, not a Committee), revisited a previous discussion pertaining to Section 130.020 of the Creve Coeur Code of Ordinances and how that could affect committee members, and elected our chair and vice-chair for FY 2015.

With the help of Mr. Lumley and yourself, the above Ordinance issue was ultimately resolved in early December, 2014. As a result of the discussions, updates were made to the on-line application and website to clarify that no member of the PAB shall be a member of any local, state, or national committee of a political party or an elected officer of a partisan club or organization to avoid any conflicts in the future. We appreciate your efforts and those of the staff to obtain clarification of this issue and to provide an explanation as to the way in which our Board varies from other city Committees in this regard.

At the end of December, 2014, the Nominating Committee met with the board chairperson for purposes of appointment of committee members. Eric Sterman (member) and Lisa Williams (alternate) were appointed to the board after council review on 1/12/2015 following the resignation of Mark Pasewark (12/9/2014) and to fill an alternate vacancy. This left us with a full committee, giving us assurance that we would be able to have a quorum should a hearing issue arise. The new members were provided with on-line education for Ethics Training via Power Point and video along with a copy of the Personnel Manual sections regarding the role and operations of the board. They will attend the formal biennial Ethics Training with the rest of the board at its next offering.

Important to note is that as of this date no appeals have been filed in 2015.

Again, our committee thanks you for your support and will be ready to serve as needed.

Yours Truly,



Lynn S. Berry, Chairperson, Personnel Appeals Board



## Personnel Appeals Board

SCHEDULED

STAFF REPORT

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8.B.1

Meeting: 10/12/15 06:00 PM  
Department: Personnel Appeals Board  
Category: Policy  
Prepared By: Sharon Stott  
Department Head: Sharon Stott

# Draft Personnel Policy & Procedures Manual Section 13

## SECTION 13 PERSONNEL DISCIPLINARY APPEALS

### 13.1 EMPLOYEE APPEAL OF DISCIPLINARY ACTION TO THE CITY ADMINISTRATOR

- a. An employee may appeal to the City Administrator for a reconsideration and rehearing of any disciplinary action taken by a Department Head involving:
  - 1. dismissal;
  - 2. demotion;
  - 3. suspension without pay and/or loss of compensatory time, singly or in combination, for more than three (3) days.

The employee's request shall be in writing and presented within seven (7) calendar days of the disciplinary action. The request shall fully set out the employee's basis for appeal and all facts pertinent to the matter including any previous written communication on the issue.

- b. After receipt of the request and after notice to the Department Head and affected employee, the City Administrator shall conduct a hearing at which time the employee may present witnesses or documents to support his position; technical rules of evidence shall not apply. The Department Head shall also be given the opportunity to present witnesses and documents supporting the disciplinary action taken. The employee may be represented by a representative of his choosing at the hearing.
- c. The City Administrator shall render a written decision to the employee, within seven (7) calendar days of the conclusion of the hearing.

### 13.2 SUBMISSION OF EMPLOYEE APPEAL TO THE PERSONNEL APPEALS

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**a. Form of Request for An Appeal**

If the employee is dissatisfied with the City Administrator's decision in a disciplinary hearing involving dismissal, demotion, or suspension without pay and/or loss of compensatory time, singly or in combination, for more than three (3) days, or a Department Head or other employee is dissatisfied with the City Administrator's disciplinary action against them (unless otherwise provided by law, i.e. Section 106.273 RSMo subject to constitutional limitations) the employee may submit a request in writing for an appeal to the Personnel Appeals ~~Board~~ ("the ~~Board~~"). Such request must be addressed to the "Personnel Appeals ~~Board~~ Chairperson" and delivered to the City Clerk at the Creve Coeur Government Center

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not later than seven (7) calendar days after the City Administrator issues and the employee receives a written decision.

**b. Receipt of Request for An Appeal from Employee ("Appellant")**

Upon receipt of a written request for an appeal, the City Clerk shall forward a copy of the request to the Chairperson of the Personnel Appeals Board. After receipt from the City Clerk, the Chairperson of the Board shall send an acknowledgment of the receipt of the request to the Appellant, and to the Appellant's attorney of record, if any. A copy of such acknowledgment shall be forwarded by the Chairperson to the City Administrator and the Department Head.

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The Chairperson shall, at the same time as the acknowledgment is sent to the Appellant as required in (b 1) above, forward a copy of the request for appeal to the members of the Personnel Appeals Board and advise them of the receipt of the request and the need to establish dates for a procedural meeting and for a hearing on the appeal.

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**c. Assignment of Legal Counsel**

The Chairperson may at any time request the City Council to hire legal counsel for the Board. The purpose of legal counsel is to assist the Board with the conduct of hearings and the drafting of decisions, including any findings of fact and conclusions of law, to the extent required by Chapter 536 RSMo.

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**13.3 PROCEDURAL REVIEW MEETING**

- a. The Chairperson may call a Procedural Review Meeting of the Board. The purpose of the Procedural Review Meeting is to review Board procedures for the conduct of the hearing and the preparation of the decision. The Board may consult with legal counsel, if appointed. A Procedural Meeting is an open meeting under the Open Meetings and Records Policy of the City of Creve Coeur in accordance with the laws of the State of Missouri.
- b. During a Procedural Review Meeting, reference should not be made by any Board member or other party to the underlying facts of a specific appeal before the Board. Further, no discussion should be held by any members of the Board concerning the particular facts of the case relating to an appeal. No access to personnel files shall be granted to the members of the Board. All evidence is to be presented at the hearing.

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### 13.4 HEARING

On an employee disciplinary appeal properly filed with the Board, the Personnel Appeals Board shall conduct a reconsideration and rehearing in accordance with the provisions of Chapter 536 RSMo and the City of Creve Coeur Personnel Policy and Procedures Manual, and shall render a written decision, including a findings of fact and conclusions of law to the extent required.

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#### a. Notification of Hearing Date

The Chairperson of the Board shall notify the Appellant, or the Appellant's attorney of record, in writing, by certified mail, of the date, time and place of the hearing. The City Administrator and Department Head shall also receive notice of the hearing. In accordance with Chapter 536 RSMo, a minimum of a 10-day notice shall be given prior to the hearing. The hearing notice shall comply in all respects with the requirements of Chapter 536 RSMo. Notice of the hearing shall also be posted on the main bulletin board at the Creve Coeur Government Center.

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#### b. Board Hearing Procedure

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1. Consistent with Chapter 536 RSMo, the hearing shall be conducted in the manner most conducive to determination of the truth and the Board shall not be bound by technical rules of evidence. However, fundamental rules of evidence are to be followed -- hearsay testimony or similar evidence, such as unsigned or unverified documents, do not qualify as competent and substantial evidence. The Board's decision is to be supported by substantial evidence on the whole record. Decisions made by the Board shall not be invalidated by any informality in the proceedings. The Chairperson shall preside over the hearing, subject to direction by a majority of those members that are present. However, with approval of the Board, the Chairperson may assign legal counsel to preside over the hearing as a hearing officer subject to direction by a majority of those members that are present.
2. Meetings of the Personnel Appeals Board shall be determined to be closed meetings under the Open Meetings and Records Policy of the City of Creve Coeur as provided for by the laws of the State of Missouri unless the employee requests the meeting remain open and the Board approves that request. Notice of the meeting must be posted in conformance with the above stated policy. The meeting is to be opened as a public meeting and the Board shall take a vote before closing the meeting for the hearing. The minutes shall reflect this action.
3. The Board shall determine the relevancy, weight and credibility of testimony and evidence. The Board shall base its findings on the preponderance of evidence.

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4. Each party shall be permitted to make an opening statement and closing argument. The City shall first present its witnesses and evidence (exhibits) in support of the charges and the appellant will then present his witnesses and evidence (exhibits) in defense. The City may respond with further evidence and the appellant may likewise reply. The Board may ask questions relevant to the matter after each witness testifies.

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5. Each party will be allowed to call and examine and cross-examine witnesses. A witness waiting to testify is to remain outside of the meeting room until called by the Board to testify.

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6. Both the City and the appellant may be represented by legal counsel.

7. The Board may request witnesses and/or production of other records or material evidence not previously introduced.

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8. A court stenographer shall be present to transcribe the meeting and to give an oath to witnesses giving testimony. A city staff member shall keep minutes of the proceedings.

9. The Board reserves the right to recess the hearing and reconvene at a later time and/or date. If this is done, the Board shall announce, during the hearing, that the hearing is recessed to a specific time and date. No additional posting of the reconvened hearing is required.

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10. The Board shall meet in closed session to deliberate and to come to a decision concerning the matter. A majority of the Board members attending the entire hearing and/or reviewing the transcript and evidence must agree on the decision in the matter.

Deleted: 10. In accordance with Section 130.020(e) of the Municipal Code, the City Council Liaison is not a voting member of the Committee. The Liaison shall not participate in the hearing or the deliberations and shall not vote on the matter. ¶

11. Decisions of the Board shall be in writing and shall be issued within forty-five (45) days after conclusion of the hearing. The decision shall include findings of fact and conclusions of law to the extent required by law and shall include a concise statement of the findings on which the Board based its decision. The decision shall set forth the charges, if any, the Board finds to be sustained and the reasons therefore. A copy of the written decision shall be forward to the Appellant or the Appellant's attorney of record and to the City Administrator. The decision of the Personnel Appeals Board shall be final and binding on the City.

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**c. Procedures to be followed in accordance with Chapter 536 RSMo**

1. All witnesses giving oral testimony shall be sworn.
2. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not the subject of the direct examination, to impeach or discredit any witness regardless of which party first called him to testify, and to rebut the evidence against him.
3. A party who does not testify in his own behalf may be called and examined as if under cross-examination.
4. The Board shall cause hearings before it to be suitably recorded and preserved by a certified court stenographer attending the hearing. The attendance will be paid for by the City. The transcript will be transcribed on request of the City, the Appellant, or the Board. The City will pay transcription costs. Minutes of the hearing will be kept for the Board's file.
5. Records and documents of the City may be offered in evidence by reference.
6. The Board shall take notice of all matters of which the courts take judicial notice (of undisputed facts of common knowledge which are universally accepted to be true) and, if these matters are relied upon in the Board's decision, the Board is to notify the appellant and allow the opportunity to contest such matters.
7. Evidence to which an objection is sustained by the Chairperson shall, at the request of the party seeking to introduce the same, or at the instance of the Board, nevertheless be heard and preserved in the record together with the cross-examination and the rebuttal.
8. Any evidence received without objection which has probative value (i.e. proving or tending to prove the point) shall be considered by the Board along with the other evidence in the case.
9. Copies of writings, documents and records shall be admissible without proof that the original thereof cannot be produced, if it shall appear by testimony or otherwise that the copy offered is a true copy of the original. If an objection to the evidence is sustained by the Chairperson, the party shall be given an opportunity by the Board to present the original evidence.
10. Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of an act, transaction, occurrence or event, shall be admissible

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Attachment: DRAFT of Personnel Policy and Procedures Manual Section 13 as of 10-

as evidence of the act, transaction, occurrence or event, if it shall appear that it was made in the regular course of business, and that it was the regular course of business to make such memorandum or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter.

11. Statistical examinations, audits, studies, surveys, interviews with many people, including long complicated accounts, or a large number of figures, etc., may be admitted upon the testimony of a witness present at the hearing who testifies to the accuracy of the information.
12. Any party desiring to introduce an affidavit in evidence at a hearing may serve notice on all other parties including copies of the affidavit at the hearing. An objection may be filed by the other party. If notice was received less than eight days prior to the hearing, the objection may be filed at the hearing.