

OTTAWA POLICE SERVICES BOARD
HUMAN RESOURCES COMMITTEE MEETING

CONFIDENTIAL MINUTES 4 #1

8 July 2019, 10:04 a.m.

Honeywell Room, 110 Laurier Avenue West

Present: Members: D. Deans (Committee Chair), L.A. Smallwood, S. Valiquet
Others: Board Members A. Blaustein; K. Egli; C. Meehan; D. Nirman;
Executive Director K. Ferraro; S. Bell, Interim Chief; U. Jaswal, Deputy
Chief; J. Letourneau, Acting Director General; J. Dunlop, Executive
Officer; D. White, Board Solicitor; J. Climie, External Legal Counsel

CONFIRMATION OF AGENDA

That the Human Resources Committee confirm the Confidential Agenda of the 8 July 2019 meeting.

CARRIED

ITEMS OF BUSINESS

1. UPDATE ON HUMAN RIGHTS HEARING – INSP. BHATNAGAR

Verbal report from Jock Climie

It was noted that there has been several hearing days and a high amount of media attention on this matter. External counsel representing the Board, Jock Climie, maintains there is still no evidence to suggest Chief Bordeleau was racist and the decision to not promote Insp. Bhatnagar was based on race.

With respect to the Chief's complaint, there are a number of emails authored by Insp. Bhatnagar that would suggest he may have lied under oath. Under any other circumstance, a Chief's complaint would be filed and an investigation would occur therefore the OPS felt it had no choice but to file the complaint. Insp. Bhatnagar's lawyer is alleging the complaint is a form of reprisal and wants this added to the case and for the Vice Chair to be seized (normally a new application would be filed and it would be heard by someone else). The Chief's complaint is currently in

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abeyance until the end of the hearing.

The Vice Chair (Annie McKendy) at the Human Rights Tribunal indicated the proceedings were escalating and that she wanted the matter resolved. The parties have since agreed to meet with a mediator, Michelle Flaherty (who was formerly with the HRT), and a meeting is scheduled to take place on August 30, 2019.

Since the full Board was in attendance at the Committee meeting, the Board agreed that it could provide direction to Jock on how to proceed in terms of a possible resolution/settlement.

The Board does not want the settlement to leave the impression that the decision to not promote Insp. Bhatnagar was race motivated or that the Board is capitulating. It was agreed that any settlement would need to include a statement/acknowledgement from Insp. Bhatnagar that discrimination did not occur.

The following points of clarification were also made:

- Insp. Bhatnagar is two years away from full pension and it is not possible to get him to pension quicker, i.e. pay the employer and employee pension contributions. He will need to put in the time. If the amount of the contributions was paid over the two years, it would be less than his salary and impact his best five years.
- Insp. Bhatnagar's secondment with the RCMP is over and he is back working with the OPS.
- The request to buy out Insp. Bhatnagar until retirement came from him.
- An informal offer to pay his legal fees was rejected.
- The OPS cannot use the Chief's complaint as a bargaining chip however there are a number of ways it can be resolved.
- When a member of the OPS acts as a witness and must provide testimony, they are there to provide factual information and evidence, not to be for or against a party (e.g. they are not there to defend the OPS).

The Board unanimously agreed that in terms of a possible settlement, it was prepared to pay an amount equal to Insp. Bhatnagar's legal fees with the condition that he make a statement that discrimination did not occur. Jock estimates Insp.

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Bhatnagar's legal fees are likely around \$125,000. Jock suggested a settlement cap of \$150,000 (but he will lead with a lower number). The Board will ensure that in any messaging it provides it acknowledges the sentiments in the Service and in the community that bias exists and it does not want to discourage individuals from coming forward if they believe discrimination has occurred.

There are still several hearing dates scheduled in September and more may be added to deal with the reprisal application. Jock estimates this could cost the Board another \$40,000-50,000 in legal costs. Jock advised that if the Board was to lose this case, he would recommend a judicial review. A loss could consist of the HRTO finding that Insp. Bhatnagar was not promoted due to race and therefore they order he be promoted retroactively. A win would be if the HRTO found no evidence that race is a factor.

On a more general note, there was some discussion about the Board being briefed more often on sensitive legal matters. The Chair can call a special meeting should a sensitive matter arise.

2. CHIEF AND CHIEF ADMINISTRATIVE OFFICER (CAO) RECRUITMENT

Draft Interview Questions - Chief

Draft Interview Questions - CAO

The minute for this item appears under Confidential Minutes 4 #2 distributed to Board members only.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

The meeting adjourned at 12:14 p.m.

NEXT MEETING

10 September 2019, 10:00am, Honeywell Room

DRAFT