



## City of Cottonwood Personnel Board Hearing Minutes

The City of Cottonwood Personnel Board held an open meeting to conduct a Hearing on Friday, April 23, 2010 in the City of Cottonwood Council Chambers, 826 N. Main Street.

### Board Members

### Present

### Absent

Karen Pfeifer – Council Representative		X
Ed Kiyler – Citizen at Large (Chairperson)	X	
Elaine Farr – Citizen at Large	X	
Richard Contreras – Employee	X	
Morgan Scott – Employee	X	
Brent Kinney – Employee	X	
Iris Dabler – Employee/Board Secretary	X	

- I. Call to order - The meeting was called to order by the Chairperson, Ed Kiyler at 9:00 AM.
- II. Roll Call – All members except Council Representative Karen Pfeifer were in attendance.
- III. Personnel Board Hearing for Sgt. Darrin Harper –
  - Opening Statement by attorney Justin Pierce, of Jackson Lewis, representing the Defendant – City of Cottonwood
  - Opening Statement by attorney Martin Bihn, of Bihn & McDaniel, P.L.C., representing the Plaintiff – Sgt. Darrin Harper
  - Officer Roger Scarim took oath; gave testimony; was questioned by Counselor Bihn; cross examined by Counselor Pierce; re-direct by Counselor Bihn.
  - Commander Gary Eisenga took oath; gave testimony; was questioned by Counselor Bihn; cross examined by Counselor Pierce; questioned by several Board members; re-direct by Counselor Bihn.
  - Police Chief Jody Fanning took oath; gave testimony; was questioned by Counselor Bihn; cross examined by Counsellor Pierce; questioned by several Board members.
  - Richard Faust, Community Services General Manager, took oath; gave testimony; questioned by Counselor Bihn.
  - Doug Bartosh, City Manager, took oath, gave testimony; was questioned by Counselor Bihn; cross examined by Counselor Pierce.
  - Sgt. Darrin Harper took oath; gave testimony; questioned by Counselor Pierce; cross examined by Counselor Bihn; questioned by several Board members.
  - Closing by Counselor Pierce
  - Closing by Counselor Bihn
  - Final Closing Remarks by Counselor Pierce
- IV. The Board convened in Executive Session.

- V. Decision of Board –
- Sgt. Harper violated a crime victim's 4<sup>th</sup> Amendment rights. There was not sufficient justification to conduct a warrantless search under the circumstances.
  - Sgt. Harper is a supervisor, and either did or should have known better.
  - The Board is troubled by the fact that even to this day, Sgt. Harper either does not recognize or does not admit that what he did was wrong.
  - For these reasons, the Cottonwood personnel Board votes to uphold the City Manager's decision to suspend Sgt. Harper for 40 hours without pay.
- VI. Adjournment – Chairperson Kiyler adjourned the meeting at 2:40 PM.

Respectfully Submitted,  
Iris Dobler  
Personnel Board Secretary