

City of Miami

*City Hall
3500 Pan American Drive
Miami, FL 33133
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Meeting Minutes

Tuesday, March 23, 2010

10:00 AM

Commission Chambers

Civil Service Board

*Miguel M. de la O, Chairperson
William J. Scarola, Chief Examiner
Michael T. Dames, Board Member
Gerald Silverman, Board Member
Joseph Kaplan, Board Member*

PLEDGE OF ALLEGIANCE

The meeting was called to order at 10:03 a.m. The roll call at the commencement of the meeting was as follows:

Present: Member Dames, Member Kaplan and Member Silverman

Absent: Chief Examiner Scarola and Chairperson de la O

Due to the absence of both the Chairman and Chief Examiner, the Board Members agreed that Member Silverman would chair the meeting.

A. APPROVING THE MINUTES OF:

Regular Meeting of March 9, 2010.

Motion by Member Kaplan, seconded by Member Dames, to APPROVE. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

B. PERSONNEL MATTERS

- B.1** Copy of a memorandum from City Manager to Eduardo Montes, Code Enforcement Field Supervisor, confirming a voluntary return to his former classification of Code Enforcement Inspector. (NOTIFICATION)

NOTIFIED

- B.2** Copy of memorandum from the City Manager, notifying Cornelius Pierre, Code Enforcement Inspector, of his termination, effective March 11, 2010. (NOTIFICATION)

NOTIFIED

C. MILITARY LEAVES OF ABSENCE**D. DISCIPLINARY MATTERS**

- D.1** Copy of a Judgment from the City Manager concurring with the Board's findings concerning Barbara Shaffner, Police Officer, relative to her 20-hour forfeiture, effective March 3, 2005. Ordered and adjudged that the decision of the Chief of Police that she shall forfeit 20-hours is hereby reversed. (NOTIFICATION)

NOTIFIED

- D.2** Copy of a Judgment from the City Manager concurring with the Board's findings concerning Kenneth McIlwain, Police Officer, relative to his 20-hour forfeiture, effective March 3, 2005. Ordered and adjudged that the decision

of the Chief of Police that he shall forfeit 20-hours is hereby reversed.
(NOTIFICATION)

NOTIFIED

- D.3** Copy of a Judgment from the City Manager concurring with the Board's findings concerning Larry Jackson, Police Officer, relative to his 40-hour forfeiture, effective March 9, 2007. Ordered and adjudged that the decision of the Chief of Police that he forfeit 40-hours is hereby reversed.
(NOTIFICATION)

NOTIFIED

- D.4** Copy of a Settlement between the City of Miami and Osnat K. Rind, Attorney, on behalf of Juan Carlos Herrera, Police Officer, relative to his 10-hour suspension, effective November 23, 2008. (NOTIFICATION)

NOTIFIED

The appeal hearing will be removed from the Board's docket.

- D.5** Copy of a Settlement between the City of Miami and Osnat K. Rind, Attorney, on behalf of Juan Carlos Herrera, Police Officer, relative to his 20-hour suspension, effective November 24, 2008. (NOTIFICATION)

NOTIFIED

The appeal hearing will be removed from the Board's docket.

- D.6** Copy of a Settlement between the City of Miami and Osnat K. Rind, Attorney, on behalf of Juan Carlos Herrera, Police Officer, relative to his 40-hour suspension, effective November 29, 2008 (NOTIFICATION).

NOTIFIED

The appeal hearing will be removed from the Board's docket.

- D.7** Copy of a Judgment from the City Manager concurring with the Board's findings concerning Clive Vernon, Police Officer, relative to his termination, effective December 1, 2008. Ordered and adjudged that the decision of the Chief of Police that he shall be terminated is hereby sustained. (NOTIFICATION)

NOTIFIED

- D.8** Copy of a Judgment from the City Manager concurring with the Board's findings concerning Harvey Nairn, Police Officer, relative to his 20-hour suspension, effective March 4, 2009. Ordered and adjudged that the decision of the Chief of Police that he shall be suspended 20-hours is hereby sustained.
(NOTIFICATION)

NOTIFIED

- D.9** Copy of a Judgment from the City Manager concurring with the Board's findings concerning Humberto Mijares, Building Inspector III, of his 14-day suspension, effective May 8, 2009. Ordered and adjudged that the decision of the Director of the Building Department that he be suspended for 14 days is hereby

reversed. (NOTIFICATION)

NOTIFIED

- D.10** Copy of a Judgment from the City Manager concurring with the Board's findings concerning Greicy Lovin, Crime Prevention Specialist, relative to her 8-hour suspension, effective August 17, 2009. Ordered and adjudged that the decision of the Chief of Police that she shall serve a 8-hour suspension is hereby reversed. (NOTIFICATION)

NOTIFIED

- D.11** Copy of a Judgment from the City Manager accepting the recommendations of the Board, concerning the grievance hearing of Dave Condell, Paralegal. (NOTIFICATION)

NOTIFIED

- D.12** Copy of a Judgment from the City Manager rejecting the recommendations of the Board, concerning the grievance hearing on behalf of Suzanne Bermudez, Administrative Aide I. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

- E.1** Notice of a "Request for a Continuance," from Osnat K. Rind, Attorney, Cohen & Rind, P.A., on behalf of Jeannie Martinez, Typist Clerk III, relative to her 8-hour suspension, effective September 10, 2008. (DISCUSSION).

Hearing of appeal is scheduled for today.

Osnat K. Rind, Attorney at Law on behalf of Jeannie Martinez stated that she is asking that a continuance of this hearing be granted and that she did speak with the department's attorney concerning her request to which he expressed no objection.

Chairman Silverman asked if there was any opposition to the continuance request. Hearing none, the Board entered a motion to GRANT the employee's request for a continuance, which resulted as follows:

Motion by Member Kaplan, seconded by Member Dames, that this matter be APPROVED. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

- E.2** Notice of a "Request for Continuance," from Osnat K. Rind, Attorney, on behalf of Jacqueline Mesidor, Police Officer, relative to her 10-hour suspension, effective December 7, 2008. (DISCUSSION)

Attorney Rind stated that she was seeking a continuance of her client's hearing and that this is the first time the hearing was scheduled.

Chairman Silverman asked if there were any objections to the continuance request. Hearing none, the Board entered a motion to GRANT the employee's request for a continuance which resulted as follows:

Motion by Member Dames, seconded by Member Kaplan, that this matter be APPROVED. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

- E.3 Copy of Findings of Fact concerning the Grievance Hearing of Andrea Adderly, Code Enforcement Inspector. (DISCUSSION)

Motion by Member Dames, seconded by Member Kaplan, that this matter be APPROVED. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

F. REPORTS

- F.1 Pending Hearings as of March 23, 2010. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS

- G.1 Copy of a Request for Grievance Hearing from Osnat K. Rind, Attorney, on behalf of Cornelius Pierre, Code Enforcement Inspector, pursuant to Civil Service Rule 12. (DISCUSSION)

Osnat Rind, attorney on behalf of Cornelius Pierre, stated that her client was laid off as the result of an employee being rolled back to the classification of Code Enforcement Inspector. She went on to say that the issue at hand in this case is the interpretation of Civil Service Rule 12.1(c) with regards to how seniority credit is to be calculated. Attorney Rind further stated that she believed Mr. Pierre had a total of 9 hours without pay during his years in the classification and according to a [payroll] report, it indicated that Mr. Pierre had an entry of leave without pay for 1 hour which caused him to lose seniority credit for that month. Attorney Rind went on to say that they are asking that Mr. Pierre's seniority credits be calculated in the manner the Board has already determined for calculating seniority credits.

Chairman Silverman asked the department's attorney if he had an objection to the employee's request for a hearing. Assistant City Attorney (ACA) Min responded in the affirmative and presented his objection. He went on to say that [according to payroll records], Mr. Pierre had entries of leave without pay over a four-month period; therefore, he did not receive seniority credit for those four months. He stated that what the Board did in both the Suzanne Bermudez and Andrea Adderly cases was to interpret Rule 12.1(c) to mean that an employee's total time in the affected classification and total leave without pay time should be calculated and if the total time of leave without pay hours were more than a month (173.3 hours), then seniority credit would [not be awarded]. ACA Min went on to say that the City Manager recently issued a judgment (in the Suzanne Bermudez case), which is included on today's agenda, in which the City

Manager stated that the Board's interpretation of Rule 12.1(c) was incorrect because the Rule does not allow for deducting seniority credits rather the employee is credited with seniority points once the requirements are met. He further stated that based upon the City Manager's judgment, it is the department's position that there was no violation of Rule 12.1(c). ACA Min stated that if the Board decides to grant a hearing, the only issue would be to determine the definition of a full month which was discussed when this issue was originally argued.

Following discussion, the Board entered a motion to GRANT the employee's request for a hearing which resulted as follows:

Motion by Member Dames, seconded by Member Kaplan, that this matter be APPROVED. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

H. TODAY'S HEARINGS

H.1 Hearing of appeal on behalf of Jacqueline Mesidor, Police Sergeant, relative to her 10-hour suspension, effective December 7, 2008.

Motion by Member Dames, seconded by Member Kaplan, that this matter be CONTINUED. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

H.2 Hearing of appeal on behalf of Bernard Troutman, Electrical Lineman, relative to his 1-day suspension, effective February 27, 2009.

ACA Min stated that the parties have reached a settlement and he is in the process of drafting the paperwork for the settlement.

NO ACTION TAKEN : CASE WILL BE CLOSED UPON RECEIPT OF WRITTEN SETTLEMENT AGREEMENT OR RESCHEDULED IN ACCORDANCE WITH THE BOARD'S CONTINUANCE POLICY.

H.3 Hearing of appeal on behalf of Joel Vasquez, Heavy Equipment Mechanic, relative to his 1-day suspension, effective March 25, 2009.

CONTINUED

H.4 Hearing of appeal on behalf of Jeannie Martinez, Typist Clerk III, relative to her 8-hour suspension, effective September 10, 2008.

Motion by Member Kaplan, seconded by Member Dames, that this matter be CONTINUED. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

ADJOURNMENT:

Chairman Silverman called for a motion to ADJOURN which resulted as follows:

Motion by Member Kaplan, seconded by Member Dames, to APPROVE. PASSED by the following vote.

Aye: Dames, Silverman and Kaplan

Absent: Chairperson de la O and Scarola

The meeting adjourned at 10:12 a.m.

SIGNATURE:

Miguel M. de la O, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary