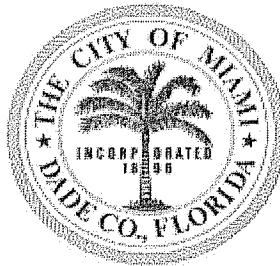


City of Miami

*City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com*



Meeting Minutes

Tuesday, January 25, 2011

10:00 AM

Commission Chambers

Civil Service Board

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

PLEDGE OF ALLEGIANCE

The meeting was called to order at 10:07 a.m. The roll call for the Board Members at the commencement of the meeting was as follows:

Present: Chief Examiner Kaplan, Chairperson de la O, Member Dames, Member Silverman and Member Moy

A. APPROVING THE MINUTES OF:

Regular Meeting of January 11, 2011.

Motion by Member Silverman, seconded by Member Moy, to APPROVE. PASSED by the following vote.

Aye: Kaplan, Silverman, de la O, Dames and Moy

B. PERSONNEL MATTERS**C. MILITARY LEAVES OF ABSENCE**

- C.1** Robert A. Perez, Police Officer requests re-employment as a Police Officer following his return from military leave. (DISCUSSION)

Motion by Member Silverman, seconded by Member Moy, that this matter be APPROVED. PASSED by the following vote.

Aye: Kaplan, Silverman, de la O, Dames and Moy

- C.2** Ramon R. Odio, Police Officer requests re-employment as a Police Officer following his return from military leave. (DISCUSSION)

Motion by Member Silverman, seconded by Chairperson de la O, that this matter be APPROVED. PASSED by the following vote.

Aye: Kaplan, Silverman, de la O, Dames and Moy

D. DISCIPLINARY MATTERS**E. GENERAL ITEMS**

- E.1** Copy of Findings of Facts in the Grievance hearing on behalf of Richard Brioso, former Assistant to the Director of GSA, pursuant to Rule 16.2 Complaint by Employee, alleging a violation of 8.13. (DISCUSSION)

Chairman de la O advised that the Board had not heard any objections to the Findings from Mr. Brioso's attorney, then asked if there were any objections from the department's attorney.

Member Kaplan noted that in finding #3 on page 2, the word "classification" is used. He went on to say that in the Civil Service Rules, the word "rank" is what is printed. He asked if it was the Board's intent to interpret Rule 8.13 to mean classification, when "rank" is used. Chairman de la O stated that he could not speak for everyone else, but, it was indeed his intention. Member Kaplan asked if the word "rank" could be used in the Findings, as cited in Rule 8.13, instead of "classification". Chairman de la O asked if

that was a motion, to which Member Kaplan responded affirmatively. The motion however, died for lack of a second.

Chairman de la O asked if there were any objections from the department. Assistant City Attorney Janeen Richard appeared before the Board and asked that the name of a witness, Ricardo Martinez, be added as he was inadvertently left out of that section of the Findings. The Board entered a motion to add the name of Ricardo Martinez to the list of witnesses in this case, which resulted as follows:

Motion by Member Silverman, seconded by Chairperson de la O, that this matter be APPROVED. PASSED by the following vote.

Aye: Kaplan, Silverman, de la O and Dames

No: Moy

Following discussion, the Board entered a motion to adopt the Findings of Fact and Conclusions of Law as amended, which resulted as follows:

Motion by Member Silverman, seconded by Member Dames, to APPROVED. PASSED by the following vote.

Aye: Silverman, de la O, Dames and Moy

No: Kaplan

E.2

Notice of a "Request to Continue," from Osnat K. Rind, Attorney, Phillips, Richard, & Rind, P.A., on behalf of Jeannie Martinez, Typist Clerk III, relative to her 8-hour suspension, effective September 10, 2008. Janeen Richard, Assistant City Attorney, expressed no objection to the continuance. (DISCUSSION)

Hearing of appeal is scheduled for February 22, 2011.

Holly E. Von Horsten, Attorney, Phillips, Richard & Rind, P.A. appeared before the Board and asked that Attorney Rind's request be approved as she has a previously scheduled arbitration on that date. ACA Richard advised that she had no objection to the request. The Board entered a motion to APPROVE the request for a continuance, on behalf of the employee.

Under discussion, Members Dames and Moy reminded Attorney Von Horsten that this matter had been on the Board's docket since 2008. Member Moy went on to say that there had been three continuances on behalf of the employee.

Chairman de la O stated that in this case, Attorney Rind is advising the Board in advance of the scheduled hearing date, and that the Board would want to reward that type of notice. He added that there would be two other hearings that day, so the day would not be wasted.

Member Dames asked if there was anyone else (on Attorney Rind's staff) who could serve in her stead. Attorney Von Horsten responded that Attorney Rind is sole counsel on Ms. Martinez' case.

Member Silverman stated that his thoughts on continuances are: if (both sides) agree to a requested continuance, the Board should not object either. He went on to say that he would be in favor of a motion (to approve Attorney Rind's request).

Following discussion, the Board entered a motion to APPROVE the request for a continuance, on behalf of the employee, which resulted as follows:

Motion by Member Silverman, seconded by Chairperson de la O, that this matter be APPROVED. PASSED by the following vote.

Aye: Kaplan, Silverman and de la O

No: Dames and Moy

F. REPORTS

- F.1** Pending Hearings as of January 25, 2011. (NOTIFICATION)
PRESENTED

G. REQUESTS FOR HEARINGS

H. TODAY'S HEARINGS

- H.1** Hearing of Appeal on behalf of Osmel Martinez, former Maintenance Mechanic Supervisor, concerning his 2-day suspension, effective January 26, 2009.
***NOTE**: The hearings on behalf of Osmel Martinez - CSB #10-01D (2-day Suspension), CSB #10-05D (Termination) and CSB #10-17G (Whistleblower-FSS 112.3187), were considered by the Board on the same dates, which began on January 25, 2011. The proceedings will begin herein, and will be included in the Meeting Minutes of the final date of hearings, in their entirety.*

Prior to entering into the hearings, Chairman de la O stated that the Board would hear three (3) cases on behalf of Mr. Osmel Martinez. He went on to say that there are two (2) Appeal hearings, where the burden of proof is on the department that issued the discipline, and one (1) Grievance hearing, where the burden of proof is on the employee who filed the grievance. Chairman de la O further clarified that the Board would hear testimony and review exhibits for the three cases, but would vote on charges and issue findings separately, in accordance with Rules 14 and 16 respectively.

The Board entered into the scheduled hearing of appeal on behalf of Osmel Martinez, the Appellant.

Janeen Richard, Assistant City Attorney (ACA), represented the Department.

Michael T. Pancier, Attorney at Law, represented the Appellant.

Both attorneys presented opening statements. All witnesses were sworn in individually. On this date, witnesses for the Department appeared in the following order:

1. Charles Postis, Superintendent of Property Maintenance, General Services Administration.

Questions were posed by Board members Moy, Kaplan and Dames, during the testimony of witness Charles Postis.

2. Alex Martinez, Deputy Director (former), General Services Administration.

Questions were posed by Board members de la O, Kaplan and Dames, during the testimony of witness Alex Martinez.

3. *Lourdes Lopez, Assistant Director (former), General Services Administration. Questions were posed by Board members Dames, Kaplan and Moy, during the testimony of witness Lourdes Lopez.*

4. *Kelly Barket, Jr., Director (former), General Services Administration. Questions were posed by Board member Dames during the testimony of witness Kelly Barket, Jr.*

**RECALL: Charles Postis, Superintendent of Property Maintenance, General Services Administration.*

Questions were posed by Board members Kaplan and Dames, during the recall testimony of witness Charles Postis.

5. *Jorge Delgado, Electrical Supervisor, General Services Administration. Questions were posed by Board member Dames during the testimony of witness Jorge Delgado.*

Considering the lateness of the hour, without objection, the Chairman directed that all witnesses who could not testify today be released, with the understanding that their subpoenas are re-validated for the continuation of the hearing.

HEARING TO BE CONTINUED The hearings will continue at the Board's next meeting date, which is February 8, 2011.

H.2

Hearing of Appeal on behalf of Osmel Martinez, former Maintenance Mechanic Supervisor, concerning his termination, effective February 17, 2010.

HEARING TO BE CONTINUED

- H.3 Whistleblower hearing on behalf of Osmel Martinez, Maintenance Mechanic Supervisor, pursuant to Florida Statute 112.3187.

HEARING TO BE CONTINUED

- H.4 Hearing of Appeal on behalf of Eddy Rodriguez, Police Officer, relative to his 40-hour forfeiture, effective February 4, 2010.

Attorney Teri Guttman-Valdes appeared before the Board, on behalf of Mr. Rodriguez and advised that the matter is being resolved. Chairman de la O asked for a motion to continue the matter due to the possible resolution. He went to say that the hearing would not be addressed today anyway, since the other hearings would most likely take the better portion of the meeting day. Member Moy asked whether the matter had been continued before. The Executive Secretary responded that the matter had appeared on a previous Board agenda, however, it was continued for 30 days in order for the parties to submit a Settlement Agreement. She went on to say that the Agreement had not been forwarded, therefore, the hearing was rescheduled and placed on today's agenda in accordance with the Board's Continuance Policy. The Board then entered a motion to APPROVE the continuance and charge it to the Board, which resulted as follows:

Motion by Member Silverman, seconded by Chairperson de la O, that this matter be CONTINUED. PASSED by the following vote.

Aye: Kaplan, Silverman, de la O and Dames

No: Moy

ADJOURNMENT:

The Chairman called for a motion to ADJOURN, which resulted as follows.

Motion by Member Silverman, seconded by Member Moy, to APPROVE. PASSED by the following vote.

Aye: Kaplan, Silverman, de la O, Dames and Moy

The meeting adjourned at 4:05 PM.

Breaks were taken at: 10:24 - 10:31AM; 12:15 - 12:25 PM; 1:16 - 2:03 PM (Lunch); and 2:35 - 2:38 PM.

SIGNATURE:

Miguel M. de la O, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary