

# **City of Miami**

*City Hall  
3500 Pan American Drive  
Miami, FL 33133  
[www.miamigov.com](http://www.miamigov.com)*



## **Meeting Minutes**

**Tuesday, April 19, 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 10:05 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 April 5, 2011.

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

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

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

- D.1** Copy of a letter from Chief Miguel Exposito, Director, Department of Police, notifying Yoslan Marrero, Police Officer, of her 120-hr suspension, effective April 11, 2011. (NOTIFICATION)  
**NOTIFIED**

**E. GENERAL ITEMS**

- E.1** Copy of Findings of Fact in the hearing of appeal on behalf of Daylet Diaz, Litigation Assistant, relative to her termination, effective August 17, 2010. (DISCUSSION)  
*The Executive Secretary apprised the Board that she received a request from Attorney Guttman-Valdes on behalf of Daylet Diaz to continue this matter. She went on to say that she would carry this item over to the Board's next meeting if there is no objection. Hearing no objection, the matter was deferred.*  
**DEFERRED TO THE MAY 3, 2011 MEETING FOR BOARD CONSIDERATION.**
- E.2** Notice of a Request for a continuance from Ronald J. Cohen, Attorney, Ronald J. Cohen, P.A., on behalf of Lillie Harris, concerning her demotion from Lieutenant to Sergeant, effective May 19, 2010. (DISCUSSION)  
  
Hearing of appeal is scheduled for May 3, 2011.  
*Ronald J. Cohen, Attorney at Law, stated that his office was assigned this case; however, he has a conflict of interest of which Sgt. Harris is aware. He went on to say that he requested a continuance because although Attorney Rind has agreed to take over this case that is scheduled for May 3, 2011, she is unavailable on that date.*  
  
*Following discussion, the Board entered a motion to APPROVE the employee's request for a continuance which resulted as follows:*

**Motion by Member Silverman, seconded by Chief Examiner Kaplan, that this matter be APPROVED. PASSED by the following vote.**

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

E.3

Notice of a Request for a continuance 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. (DISCUSSION)

Hearing of appeal is scheduled for May 3, 2011.

*Stella Chu, Law Offices of Phillips, Richard & Rind, stated that she was appearing on behalf of Attorney Rind to request that Ms. Martinez' hearing be continued due to medical reasons.*

*Chairman de la O asked for the department's position. Janeen Richard, Assistant City Attorney (ACA), responded that while she is sympathetic to Ms. Martinez' ailment, this case has been continued four times (by the employee). She went on to say that the penalty in this case is an 8-hour suspension and the way the Board's calendar is set up now, the first available hearing date would be some time in October 2011. ACA Richard further stated that she thinks it is unfair that she prepared for the case only for it to possibly take another 6 months to try the case. She stated that if there is an agreement reached (by the Board) to continue this case, she would ask that it be set for a special meeting sometime within the next month. Chairman de la O asked if all four continuances were requested by the employee. The Executive Secretary responded that this case was actually continued 5 times, four of which were charged to the employee and one to the Board.*

*Chairman de la O asked Attorney Chu if she had anything else she wished to relay to the Board on this matter. Attorney Chu responded that she understands the department's position; however, this was an unavoidable situation due to medical reasons which is something Ms. Martinez could not have prevented.*

*Following discussion, the Board entered a motion to APPROVE the employee's request for a continuance. Under discussion on the motion, Member Moy stated that he agreed with the department especially since this case was continued four times on behalf of the employee. He went on to say that he thinks the Board is wasting time (with this case) and that he was not going to vote in favor of the continuance request.*

*Chairman de la O stated that he is sympathetic to the department's argument. He went on to say that if this was a termination case (and the continuance was granted), the City would suffer prejudice because it would have to pay the employee back pay. Chairman de la O further stated because this case involves a suspension, he did not see enough prejudice to warrant denying the employee's request for a continuance. He asked if anyone wished to say anything more before the Board voted. ACA Richard responded that a lot of the witnesses in this case have retired so she did not know what witnesses would be available to testify if the hearing is rescheduled to October.*

*Member Dames stated that he knows that Ms. Martinez has exhausted her leave time (vacation, ill) and has requested time to be donated to her so he is sympathetic to the employee's request to continue her hearing. He asked if the attorneys ever tried settling this case as opposed to having a hearing. Attorney Chu responded that she did not have the authority to make that decision and that she would have to bring this matter to Attorney Rind and the employee; however, she was open to dialogue. Member Dames asked the department's attorney if she was open to dialogue. ACA Richard responded that she is always open to dialogue; however, dialogue had not been directed her way.*

*Following discussion, Member Silverman amended his motion to grant the employee's request for a continuance and reschedule the hearing to June 28, 2011 which resulted as follows:*

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

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

**No:** Moy

## **F. REPORTS**

- F.1** Pending Hearings as of April 19, 2011. (NOTIFICATION)  
PRESENTED

## **G. REQUESTS FOR HEARINGS**

## **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.

Rescheduled pursuant to continuance policy; pending settlement since 3/8/11.

*The Executive Secretary informed the Chair that discussion needs to take place on Items H.1 through H.4 as these cases were only placed on today's agenda because of the Continuance Policy. She went on to explain that settlements were announced in these cases; however, the settlements were not received and the cases were rescheduled in accordance with the policy. The Executive Secretary further stated that in the matter of Jacqueline Mesidor (Item H.1), a settlement has been pending since March 8, 2011, no settlement agreement has been received so she needs clarification from the attorneys as to what is happening with these cases.*

*Attorney Cohen stated that he was available to speak concerning Item H.1 which is a hearing requested on behalf of his client, Jacqueline Mesidor. He went on to say that his client signed the written agreement this morning, which was returned to ACA Richard in order for her to obtain the Police Chief's signature. Chairman de la O asked if this would be the last time that this matter appeared on the Board's agenda. Attorney Cohen responded that he would hope so.*

**SETTLED : Case will be closed and removed from the Board's Docket upon receipt of written settlement agreement or rescheduled in accordance with the Board's Continuance Policy.**

- H.2** Hearing of appeal on behalf of Rameses Rengifo, Police Officer, relative to his 10-hour suspension, effective April 25, 2009.

Rescheduled pursuant to continuance policy; pending settlement since 3/8/11.

*Attorney Cohen stated that a settlement has been reached by the department and the employee; however, the document needs to be signed by both parties so he is hoping they have the settlement agreement ready by the Board's next meeting.*

**SETTLED : Case will be closed and removed from the Board's Docket upon receipt of written settlement agreement or rescheduled in accordance with the Board's Continuance Policy.**

**H.3**

Hearing of appeal on behalf of Eddy Rodriguez Jr., Police Officer, concerning his 40-hour forfeiture, effective February 4, 2010.

Rescheduled pursuant to continuance policy; pending settlement since 8/24/10.

*Chairman de la O stated that according to the agenda item H.3 (Hearing of Appeal on behalf of Eddy Rodriguez), it indicates that a settlement has been pending since August 24, 2010 and asked if this was correct. The Executive Secretary responded in the affirmative.*

*ACA Richard stated that Attorney Guttman-Valdes represents Officer Eddy Rodriguez; however, she is not present at today's meeting. She went on to say that she sent over a settlement agreement signed by the Police Chief in September 2010 and it has yet to be signed or approved by the employee. ACA Richard further stated that she thinks the settlement is more than fair.*

*Chairman de la O asked if the settlement was verbally agreed upon in the sense that what was sent to the employee was what the department and employee would agree to. ACA Richard responded that she believed there was an issue with the language so they have not been able to reach an agreement as to what the agreement should say. For clarification purposes, Chairman de la O asked if both sides had discussion on the settlement as opposed to the department sending Officer Rodriguez a proposal in hopes that he would agree to a settlement. ACA Richard responded in the affirmative. Chairman de la O stated that concerning this case, he thinks the Board should roll this matter over to the Board's next meeting and ask Attorney Guttman-Valdes to explain what is going on with the settlement or the Board Members could suggest something else. He went on to say that the Board's only remedy would be to set and have the hearing.*

*Following discussion, the Board entered a motion to CONTINUE the employee's hearing and reschedule the hearing to May 17, 2011 which resulted as follows:*

**Motion by Member Silverman, seconded by Chief Examiner Kaplan, that this matter be CONTINUED. PASSED by the following vote.**

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

**Following the Board's motion, the Chair instructed the Executive Secretary to notify Attorney Guttman-Valdes of her client's new hearing date of May 17, 2011 and to provide Board Members with a copy of the settlements.**

**H.4**

Hearing of Appeal on behalf of Jeffrey Jans, Police officer, relative to his 80-hour suspension, effective April 13, 2010.

*Attorney Cohen stated that Officer Jans has retired; however, they reached an agreement to reduce his 80-hour suspension to a 40-hour suspension. He went on to say that Officer Jans has signed the agreement which was forwarded to ACA Richard to obtain the Police Chief's signature.*

**SETTLED : Case will be closed and removed from the Board's Docket upon receipt of written settlement agreement or rescheduled in accordance with the Board's Continuance Policy.**

**H.5**

Hearing of Appeal on behalf of Dashon Yearby, Police Officer, relative to her 10-hour suspension, effective February 14, 2010.

*Attorney Cohen stated that he is aware that the witnesses are present for Officer Yearby's hearing today and he apologizes. He went on to say that he is doing his best to take care of all of the cases he has inherited but he was not completely ready to go forward with this case today. Attorney Cohen further stated that he plans to attend the Board Meeting on May 3 and is asking that Officer Yearby's case be continued to that meeting date. He stated that this would be the first continuance request by the employee; however, he thinks it was continued once on behalf of the department.*

*Chairman de la O asked for the department's position on the employee's request for a continuance. ACA Richard responded that she prefers to go forward today especially since her witnesses are present and available to testify; however, she did not have an objection to rolling the matter over to the Board's next meeting of May 3.*

*Following discussion, the Board entered a motion to grant the employee's request for a CONTINUANCE which resulted as follows:*

**Motion by Chief Examiner Kaplan, seconded by Member Silverman, that this matter be CONTINUED TO THE MAY 3, 2011 MEETING FOR BOARD CONSIDERATION. PASSED by the following vote.**

**Aye:** Kaplan, Silverman and de la O

**No:** Moy and Dames

**ADJOURNMENT:**

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

**Motion by Member Silverman, seconded by Chairperson de la O, to APPROVE PASSED by the following vote.**

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

**No:** Dames

*The meeting was adjourned at 10:20am.*

**SIGNATURE:**

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**Miguel M. de la O, Chairperson**

**ATTEST:**

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**Tishria L. Mindingall, Executive Secretary**