

# **City of Miami**

*City Hall  
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## **Meeting Minutes**

**Tuesday, August 23, 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 10:13 a.m. The roll call for the Board Members at the commencement of the meeting was as follows:*

**Present:** Chairperson de la O, Member Dames and Member Moy

**Absent:** Chief Examiner Kaplan and Member Silverman

**A. APPROVING THE MINUTES OF:**

Regular Meeting of August 9, 2011.

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

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

**Absent:** Kaplan and Silverman

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

- D.1** Copy of an Acknowledgment, Waiver, and Full and Final Release Agreement between City of Miami and Olatunbosun "Ola" Aluko, former Director of Capital Improvement Programs, relative to his Whistleblower hearing.  
(NOTIFICATION)

Case will be closed and removed from the Board's docket.

**NOTIFIED**

- D.2** Copy of a letter from Chief Miguel Exposito, Director, Department of Police, notifying Justin Garcia, Police Officer, of his 10-hour suspension, effective August 11, 2011. (NOTIFICATION)

**NOTIFIED**

**E. GENERAL ITEMS**

- E.1** Copy of Findings of Fact in the Appeal Hearing of Jorge E. Aguilar, Police Officer, relative to his 80-hour forfeiture, effective October 26, 2008.  
(DISCUSSION)

Deferred from the meeting of August 9, 2011.

*Chairman de la O stated that the Board does not have a quorum to hear this item today since he abstained from the hearing and two of the Board Members that sat for Officer Aguilar's hearing are not present. He asked if there were any objections to rolling this matter over to the next meeting. Hearing none, the matter was deferred.*

**DEFERRED :** The findings will be considered at the September 6 meeting.

## E.2

Notice of a Request for a continuance from Jon M. Kreger, Attorney, on behalf of Gilberto Gomez, Police Sergeant, relative to his 40-hour forfeiture, effective January 14, 2008. Janeen Richard, Assistant City Attorney, expressed no objection to the continuance if the hearing is rescheduled for September 6, 2011. (DISCUSSION)

Hearing of appeal is scheduled for today.

*Attorney Kreger stated that he requested a continuance because Officer Gomez is attending a City-related training in Las Vegas. He went on to say that Assistant City Attorney (ACA) Richard was contacted reference his continuance request and she has no objection provided the hearing is rescheduled to the meeting of September 6, 2011.*

*Chairman de la O asked ACA Richard for her position on the continuance request. ACA Richard responded that the discipline occurred in 2008 and is therefore an old case; however, she has no objection as long as Officer Gomez' hearing is rescheduled to the meeting date of September 6, 2011.*

*Chairman de la O asked if there was any problem with rescheduling Officer Gomez' case to the September 6, 2011 meeting. The Executive Secretary responded that there could possibly be a problem because the September 6 meeting follows Labor Day, there are two cases already scheduled for this date, and that it will be a short day since the Chambers have to be vacated by 2:00 P.M. Chairman de la O asked if there was any reason why Officer Gomez' case could not take precedence over the two cases that are already scheduled. The Executive Secretary responded this would be something the attorneys could work out since both cases belong to Attorney Cohen. Chairman de la O stated he only asked because he did not know if one of the cases involved a termination. ACA Richard responded that neither one of the cases involved a termination, instead one case involves a forfeiture and the other case involves a suspension. Chairman de la O asked both attorneys how many witnesses they had for this case. ACA Richard responded that she has four witnesses and Attorney Kreger responded that he has possibly two witnesses, which may be the same witnesses that the department is calling to testify.*

*Chairman de la O stated it seemed unlikely the Board would finish Sgt. Gomez' case since it will be a short day; however, the case could be moved to the September 6 meeting, but the problem is he does not feel the case would be finished that day, but it is the attorneys' call. ACA Richard stated that she always tries to keep her cases short, but then she is hammered (by the Board) when she does not call certain witnesses so this time she is going to bring everyone so she does not hear the comment that a certain witness was not called to testify. She went on to say that her issue is this matter has been pending for three years and it is difficult to continue to have to meet with witnesses, prepare them to come for a hearing, and then for whatever reason the hearing is continued. ACA Richard further stated that she does not think it would be fair to put this case at the end of the pending hearings list since the hearings are booked through the end of the year. Chairman de la O responded that no one has objected to the rescheduling of this matter to the next meeting date so it will be scheduled for that date.*

*Following discussion, the Board entered a motion to grant the employee's request for a CONTINUANCE and reschedule Officer Gilberto Gomez' hearing to the meeting of September 6, 2011 which resulted as follows:*

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

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

**Absent:** Kaplan and Silverman

**E.3**

Notice of a Request for a continuance from Ronald J. Cohen, Attorney, on behalf of Jean Marie Jean-Philippe, Police Officer, relative to his 80-hour suspension, effective March 29, 2010. (DISCUSSION)

**ITEM ADDITION**

Hearing of appeal is scheduled for today.

*Attorney Kreger stated that Attorney Cohen did not intend to be present at today's meeting because he was called to attend a negotiations meeting due to the City's financial urgency situation that has recently occurred. He went on to say the meeting finished early which is the reason Attorney Cohen is present, but that he still wishes to continue the hearing of Officer Jean-Philippe.*

*Chairman de la O asked if there were any objections to the continuance request. ACA Richard responded that she does not oppose the continuance because she knows Attorney Cohen has a conflict with his schedule; however, she does object to just finding out yesterday that opposing counsel would be requesting a continuance. She went on to say that the allegations involve claims made by private citizens and that this case has been pending over two years; therefore, she would ask that this case be rescheduled as soon as possible because she continues to lose witnesses as long as these matters continue to be pending. ACA Richard asked if she could know what is the next available date that this case could be scheduled. The Executive Secretary responded the next available date would be November 1, 2011; however, there is one case already scheduled on that date, but she did not know if Attorney Cohen would be available since he is only available certain days out of the year. Chairman de la O asked Attorney Cohen if he was available. Attorney Cohen responded in the negative. He went on to say that he may be able to rearrange his schedule on November 1 but he was not sure. Chairman de la O asked Attorney Cohen if there was a chance that he might be in town on November 1. Attorney Cohen responded that currently he is scheduled to be out of town, but sometimes the date is changed; therefore, he could make a call to find out if the date might be changed. Chairman de la O suggested that Attorney Cohen work with the Executive Secretary in figuring out a date that would work for all parties involved.*

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

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

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

**Absent:** Kaplan and Silverman

**E.4**

Hearing of Appeal on behalf of Dashon Yearby, Police Officer, relative to her 10-hour suspension, effective February 14, 2010. (DISCUSSION)  
Rescheduled pursuant to continuance policy; pending settlement since May 17, 2011.

*ACA Richard stated that Items E.4 through E.8 are pending settlements. She went on to say that she did receive the original signed document in the matter of Officer Dashon Yearby but because the Police Chief was on vacation, the settlement could not be*

*signed prior to today. ACA Richard further stated with regards to Items E.5 (Hearing on behalf of Officer Eddy Rodriguez, Jr.), E.6 (Hearing on behalf of Officer Jeffrey Jans) and E.7 (Hearing on behalf of Sgt. Teresa Borkowski), she is also awaiting the Police Chief's signature on these settlements. Chairman de la O asked if the only thing required is the Police Chief's signature or did the settlements have to be signed by the employees? ACA Richard responded that she received signed copies by the employees in the cases of Officer Dashon Yearby, Officer Eddy Rodriguez, and Sgt. Teresa Borkowski. She went on to say that with regards to the matter of Officer Jeffrey Jans' settlement, she was still working with Attorney Cohen's assistant to obtain the original signature and concerning the matter of Javier Gonzalez (Item E.8), they have not finalized the terms of the agreement.*

**NO ACTION TAKEN : Case will be closed upon receipt of written settlement agreement or placed back on the agenda within 30 days for Board consideration.**

- E.5** Hearing of Appeal on behalf of Eddy Rodriguez Jr., Police Officer, concerning his 40-hour forfeiture, effective February 4, 2010. (DISCUSSION)  
Rescheduled pursuant to continuance policy; pending settlement since August 24, 2010.

**NO ACTION TAKEN : Case will be closed upon receipt of written settlement agreement or placed back on the agenda within 30 days for Board consideration.**

- E.6** Hearing of Appeal on behalf of Jeffrey Jans, Police Officer, relative to his 80-hour suspension, effective April 13, 2010. (DISCUSSION)  
  
Rescheduled pursuant to continuance policy; pending settlement since April 19, 2011.

**NO ACTION TAKEN : Case will be closed upon receipt of written settlement agreement or placed back on the agenda within 30 days for Board consideration.**

- E.7** Investigation Hearing on behalf of Teresa Borkowski, Police Sergeant, pursuant to Rule 16.1, Abuse of Power. (DISCUSSION)

Rescheduled pursuant to continuance policy; pending settlement since 11/16/10.

**NO ACTION TAKEN : Case will be closed upon receipt of written settlement agreement or placed back on the agenda within 30 days for Board consideration.**

- E.8** Hearing of appeal on behalf of Javier Gonzalez, Police Officer, relative to his 20-hour suspension, effective June 1, 2006. (DISCUSSION)  
Rescheduled pursuant to continuance policy; pending settlement since July 26, 2011.

**NO ACTION TAKEN : Case will be closed upon receipt of written settlement agreement or placed back on the agenda within 30 days for Board consideration.**

## **F. REPORTS**

- F.1** Pending Hearings as of August 23, 2011. (NOTIFICATION)

**PRESENTED****G. REQUESTS FOR HEARINGS****H. TODAY'S HEARINGS**

- H.1** Hearing of Appeal on behalf of Jean Marie Jean-Philippe, Police Officer, relative to his 80-hour suspension, effective March 29, 2010.  
*The Board took no action on this case because a continuance was granted at today's meeting.*

**CONTINUED**

- H.2** Hearing of appeal on behalf of Gilberto Gomez, Police Sergeant, relative to his 40-hour forfeiture, effective January 14, 2008.  
*The Board took no action on this case because a continuance was granted at today's meeting.*

**CONTINUED**

- H.3** Hearing of appeal on behalf of Shekita Johnson, Communications Operator, relative to her 8-hour suspension, effective February 8, 2009.  
ITEM ADDITION

*ACA Richard stated that based on suggestions from Board Members, she and Attorney Braverman are trying to work out a settlement with Ms. Johnson so as to avoid having a hearing.*

*Chairman de la O asked if a continuance was being sought by the department or employee in this case. ACA Richard responded that Attorney Braverman was not present, but she would ask that the continuance be charged to the department.*

*Following discussion, the Board entered a motion to CONTINUE the hearing of appeal on behalf of Shekita Johnson and charge the continuance to the department. Under discussion on the motion, Member Dames stated that he thinks ACA Richard could do better in getting this case resolved and then asked ACA Richard if she reviewed the case involving Shekita Johnson. ACA Richard responded that she is still working on settling the case. She went on to say that she reviewed Ms. Johnson's Civil Service case, and the hearing minutes involving the prior employee (who had a verbal altercation with Shekita Johnson) so she is fully versed in the facts of the case.*

*Following discussion, the motion on the floor to CONTINUE the hearing of appeal on behalf of Shekita Johnson and charge the continuance to the department resulted as follows:*

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

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

**Absent:** Kaplan and Silverman

**ADJOURNMENT:**

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

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

**Aye:** de la O and Moy

**No:** Dames

**Absent:** Kaplan and Silverman

*The meeting adjourned at 10:26 a.m.*

**SIGNATURE:**

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

**ATTEST:**

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**Tishria L. Mindingall, Executive Secretary**