

# **City of Miami**

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



## **Meeting Minutes**

**Tuesday, September 6, 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 10:08 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 August 23, 2011

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

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

**B. PERSONNEL MATTERS****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 Osmel Martinez, Maintenance Mechanic Supervisor, relative to his 2-day suspension effective January 26, 2010. It is ordered and adjudged that the decision of the Department Director to suspend Mr. Martinez is hereby reversed. (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 23, 2011.
- Chairman de la O stated that the findings are very hard to follow with the huge paragraphs and there is no pinpointing of what the differences are between the versions submitted by the employee and department so Attorney Kreger needs to be able to tell the Board what the differences are. He went on to say that he is not voting, but he was not sure how the other Members are supposed to follow along as to what changes Attorney Kreger wants to make to the findings.*
- Jon Kreger, Attorney on behalf of Officer Aguilar, responded that unfortunately the version before the Board omits language he wished to have included; however, he has the original copy of his version that he sent to the Executive Secretary that shows what he crossed out and what he added to the proposed findings.*
- Member Silverman stated that consideration of the findings was not working smoothly and suggested that both attorneys take a few minutes to see if they can work it out to determine what information they want or do not want included in the findings so that when they return, it would be much clearer for the Board to consider. Chairman de la O*

the negative. Chairman de la O suggested that the Board continue with the remaining agenda items, which would give Assistant Chief Brown an opportunity to appear.

Following consideration of all of the items on the agenda, the Board returned to this item for consideration. Noting that neither Assistant Chief Brown nor a representative on his behalf was present, the Chairman asked the Board Members what was their pleasure concerning this item. Member Dames responded that the last time Assistant Chief Brown filed a whistleblower complaint, he withdrew it so this matter might be in limbo. Chairman de la O asked if the Board wished to postpone this matter for two weeks which would allow Assistant Chief Brown an opportunity to appear or find out whether his complaint is moot?

Member Silverman stated while the Board is talking about whistleblower claims, he would like to ask the Board's Special Counsel to prepare at her convenience a copy of the Whistleblower Statute and a short presentation of the Board's responsibility and jurisdiction with regards to whistleblower claims. He went on to say that he believed there was a Third District Court of Appeals case that he would like to have provided to the Board so that the Board would be prepared whenever a whistleblower hearing takes place.

**DEFERRED :** The Executive Secretary advised that she would carry this item over to the September 20, 2011 meeting.

## H. TODAY'S HEARINGS

### H.1 Hearing of Appeal on behalf of Gilberto Gomez, Police Sergeant, relative to his 40-hour forfeiture, effective January 14, 2008.

ACA Richard stated that the Board may recall that Officer Gomez' hearing was set to go forward two weeks ago and her witnesses were available at that time; however, the hearing was continued to today. She went on to say that she found out yesterday that her main witness is not available so she would ask that this hearing be continued and that this is the department's first request for a continuance.

Chairman de la O asked Attorney Kreger if he had an objection to the department's request for a continuance. Attorney Kreger responded that he had no objection; however, his witnesses were present. Following discussion, the Board entered a motion to grant the department's request for a CONTINUANCE which resulted as follows:

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

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

**No:** Dames

### H.2 Hearing of Appeal on behalf of Luis Hernandez, Police Officer, relative to his 40-hour suspension, effective March 6, 2009.

ACA Richard stated that she would ask that this hearing be continued for the reason that her witness, Officer Giordano, left a message to advise that he is ill and will not be present for today's hearing. She went on to say that Officer Giordano engaged in a physical altercation with Officer Hernandez and is therefore an essential witness in this case; therefore, she would again ask that this case be continued because she cannot proceed without him.

*responded that he preferred what the Board usually does when considering the findings, which is both attorneys (Richard and Kreger) provide the Board with individual copies of Special Counsel's original findings inclusive of their strike-throughs of information to be deleted and underlined information to be added and the Board would consider each suggested change. He went on to say this makes it easier to follow the changes but trying to read whole paragraphs is impossible.*

**DEFERRED : Findings will be considered by the Board at its September 20, 2011 meeting. Both attorneys will submit findings in the format as recommended by the Chairman.**

**E.2**

Copy of Findings of Fact on behalf of Steven Wolf, *former* C.I.P. Investigator, relative to his Whistleblower Hearing, pursuant to Florida Statute 112.3187. (DISCUSSION)

Deferred from the meeting of August 23, 2011

*Noting that neither Steven Wolf nor his attorney was present, Chairman de la O asked if the Board wished to go forward with this matter today and if not, he needed a motion to defer it. The Board entered a motion to DEFER this matter which resulted as follows:*

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

**Aye:** Kaplan, Silverman and Moy

**No:** Dames

**Abstain:** de la O

*Following the Board's approved motion to defer consideration of the matter of Stephen Wolf, ACA Richard requested that upon reaching out to Mr. Wolf's attorney that he be given a date-certain to submit his proposed findings so that she and the Board will know within the next two weeks whether or not he will make an appearance.*

**DISCUSSED : Chairman de la O suggested that Mr. Wolf's attorney submit his findings the Wednesday preceding the Tuesday meeting scheduled for September 20, 2011.**

**F. REPORTS**

**F.1** Pending Hearings as of September 6, 2011. (NOTIFICATION)

**PRESENTED**

**G. REQUESTS FOR HEARINGS**

**G.1** Copy of a request for a Whistleblower Hearing from Roy Brown, Assistant Chief, Department of Police, pursuant to Florida Statute 112.3187. (DISCUSSION)

*Chairman de la O stated that he did not see Assistant Chief Brown in the audience and asked if he was present. The Executive Secretary responded that Assistant Chief Brown came by her office last week to reiterate that he wanted this matter on today's agenda for consideration by the Board. Chairman de la O stated that Assistant Chief Brown may not have appeared because the issue is potentially moot and asked Assistant City Attorney (ACA) Richard if she heard from him. ACA Richard responded in*

*Chairman de la O asked opposing counsel if he had an objection to the department's request. Attorney Kreger responded that he had no objection but wants the Board to know that he was prepared to go forward today. Following discussion, the Board entered a motion to grant the department's request for a CONTINUANCE 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 Moy

**No:** Dames

**ADJOURNMENT:**

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

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

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

*The meeting adjourned at 10:27 a.m.*

**SIGNATURE:**

---

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

**ATTEST:**

---

**Tishria L. Mindingall, Executive Secretary**