

City of Miami

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

Tuesday, September 20, 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 10:06 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 September 6, 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 letter from Keith A. Carswell, Director, Department of Solid Waste, notifying Sedrick Davis, Waste Collector Operator II, of his Termination, effective September 10, 2011. (NOTIFICATION)

NOTIFIED

- D.2** Copy of a letter from Chief Miguel Exposito, Director, Department of Police, notifying Andres Ramos, Police Officer, of his 10-hour suspension, effective September 9, 2011. (NOTIFICATION)

NOTIFIED

- D.3** Copy of a letter from Chief Miguel Exposito, Director, Department of Police, notifying Johnny Brutus, Police Officer, of his 20-hour suspension, effective September 10, 2011 and a copy of a request to appeal from Officer Brutus. A hearing of appeal will be scheduled in accordance with Civil Service Rules & Regulations. (NOTIFICATION)

RECEIVED AND FILED

- D.4** Copy of a letter from Chief Miguel Exposito, Director, Department of Police, notifying Dayanna Frederick, Police Officer, of her 40-hour suspension, effective September 15, 2011. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

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

(DISCUSSION)

Deferred from the meeting of September 6, 2011.

The Board entered a motion to APPROVE the findings of fact as amended 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, Dames and Moy

Abstain: de la O

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 September 6, 2011

Member Dames stated due to the lack of respect on the part of Mr. Wolf and his attorney not to appear [this second time on the Agenda], he would move to accept the findings of fact, with the changes submitted by the department. Chairman de la O responded that he understands Member Dames' point, but he thinks the Board should consider each of the recommended changes first and then vote to approve the findings. Hearing no objection, the Board considered the findings and entered a motion to APPROVE the findings of fact as amended 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, Dames and Moy

F. REPORTS**F.1**

Pending Hearings as of September 20, 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)

Deferred from the meeting of September 6, 2011

The Executive Secretary informed the Board that she sent notice to Assistant Chief Brown advising him that his request would be considered on today's agenda, but she has not heard from him.

Chairman de la O stated that he would like to know the Board's pleasure concerning this matter since this is the second time that Assistant Chief Brown has not appeared. Member Silverman responded that the Board should deny Assistant Chief Brown's request without prejudice. Chairman de la O asked the Board's Special Counsel if she had any advice as to whether the Board should deny or table indefinitely this matter. Cynthia A. Everett, Special Counsel, responded in the negative.

Hearing no other suggestions, the Board entered a motion to DENY Assistant Chief Brown's request without prejudice, 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, Dames and Moy

H. TODAY'S HEARINGS

H.1 Hearing of Appeal on behalf of Nicole Sweet, Communications Operator, concerning her 16-hour suspension, effective October 30, 2010.
(DISCUSSION)

Chairman de la O suggested that the Board consider together Items H.1 (Nicole Sweet - 16 hour suspension) and H.2 (Nicole Sweet - 24 hour suspension).

Michael Braverman, Attorney at Law on behalf of Nicole Sweet, stated that his client informed him that she faxed a notice to the Civil Service Board Office this morning, withdrawing her appeal requests relative to her 16-hour and 24-hour suspensions, so there was no need to conduct the hearings that are scheduled for today.

Member Moy stated as a courtesy to the Executive Secretary and employees with pending cases to be heard before the Board, he thinks notification of any withdrawal should be made at least two weeks in advance by either the employee or the attorney to the Executive Secretary. He went on to say that if the Executive Secretary had received timely notice, she could have scheduled two other hearings in the place of Ms. Sweet's cases that were withdrawn. Member Moy stated that it is not like an employee just wakes up and decides to withdraw their appeal rather this is something the employee has to be thinking about for a period of time therefore the Executive Secretary should have been given ample notice. Chairman de la O responded that the Board cannot force an employee to have their appeal heard if the employee chooses against it. He went on to say that it would be nice to get ample notice, but it sounds like Ms. Sweet made up her mind to withdraw her appeal requests this morning.

Attorney Braverman stated that Ms. Sweet made up her mind to withdraw her request some time between yesterday and today and that he attempted to reach out to ACA Richard so that he could make known Ms. Sweet's decision to her. He went on to say that it is actually no one's fault concerning the short notice; however, he does apologize and respects Member Moy's comments; therefore, he will do everything possible to provide ample notice of withdrawals to the Executive Secretary in the future.

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

H.2 Hearing of Appeal on behalf of Nicole Sweet, Communications Operator, concerning her 24-hour suspension, effective November 1, 2010.
(DISCUSSION)

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

H.3 Hearing of Appeal on behalf of Deborah Hudson, Typist Clerk III, relative to her 80-hour suspension, effective January 31, 2011.

Attorney Braverman stated that he was prepared to go forward today; however, he learned late yesterday that his only other witness besides Ms. Hudson has a family member that is ill and therefore is unable to attend today's hearing. He went on to say that he respectfully requests that this case be continued until a time when his witness is able to appear.

Chairman de la O asked if the witness could appear by phone. Attorney Braverman responded that he was not sure since the witness is caring for a sick child. He went on to say that he spoke with this witness yesterday afternoon who assured him that he would make every effort to be present today, but advised him late yesterday afternoon that he was not going to be able to appear for Ms. Hudson's hearing today.

Chairman de la O asked for the department's position on the continuance request. ACA Richard responded that she believes this is a fairly new case and of course she is sympathetic towards anyone who has a sick child, so she does not have an objection. She went on to say that she would ask that the case be rolled over as soon as possible to a day that Attorney Braverman is scheduled to come before the Board on another matter.

Following discussion, the Board entered a motion to grant the employee'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, Dames and 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, Dames and Moy

No: de la O

The meeting adjourned at 10:45 a.m.

SIGNATURE:

Miguel M. de la O, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary