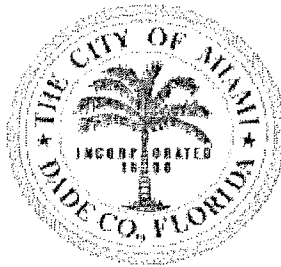


City of Miami

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Meeting Minutes

Tuesday, August 7, 2012

10:00 AM

Commission Chambers

Civil Service Board

*Gerald Silverman, Chairperson
Sean Moy, Chief Examiner
Carlos Lago, Board Member
Lillie Harris, Board Member
Christine Gomez, Board Member*

PLEDGE OF ALLEGIANCE

The meeting was called to order at 10:00 a.m. The roll call at the commencement of the meeting was as follows:

Present: Member Lago, Chairperson Silverman, Chief Examiner Moy, Member Harris and Member Gomez

A. APPROVING THE MINUTES OF:

Regular Meeting of July 24, 2012.

The Board entered a motion to approve the minutes of July 24, 2012 which resulted as follows:

Motion by Chief Examiner Moy, seconded by Member Harris, to APPROVE. PASSED by the following vote.

Aye: Silverman, Moy, Gomez, Lago and Harris

B. PERSONNEL MATTERS

- B.1** Request from Nickinson Dominique, to be placed on the re-employment list for Emergency Dispatcher, pursuant to Civil Service Rule 12, Sec. 12.4, Resignations and a copy of the Department Director's endorsement.
(DISCUSSION)

Chairman Silverman asked if Nickinson Dominique was present. The Executive Secretary responded that Mr. Dominique was not required to be present. Chairman Silverman stated that since this is an item marked for discussion, he wanted to know what was the discussion. The Executive Secretary responded that the Board must decide whether Mr. Dominique would be allowed to be considered when the Emergency Dispatcher position is available.

Chairman Silverman asked if there was anyone present that wished to speak on this matter. Member Harris asked if there was a letter from the department director endorsing Mr. Dominique's request for re-employment. The Executive Secretary responded in the affirmative. Following discussion, the Board entered a motion to approve Nickinson Dominique's request to have his name placed on the re-employment list for Emergency Dispatcher, which resulted as follows:

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

Aye: Silverman, Moy, Gomez, Lago and Harris

C. MILITARY LEAVES OF ABSENCE

- C.1** Sandy Cabana, Police Officer, requests Active Duty Military Leave, without pay from August 10, 2012 through September 23, 2013. Copy of Orders attached.
(DISCUSSION)

Chairman Silverman asked Officer Cabana if he was entering into the military service. Officer Sandy Cabana responded that he was already in the military and had been for four years. He went on to say that he was called to active duty and has to leave for Afghanistan on August 21, 2012.

Chairman Silverman asked if Board Members had any questions of Officer Cabana. Member Lago responded that he had no questions, but wanted to thank Officer Cabana for his service to this country and also to say that his action to duty was very commendable. Following discussion, the Board entered a motion to APPROVE Officer Cabana's request for military leave from August 10, 2012 through September 23, 2013, which resulted as follows:

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

Aye: Silverman, Moy, Gomez, Lago and Harris

D. DISCIPLINARY MATTERS

- D.1** Copy of a letter from Chief Manuel Orosa, Director, Department of Police notifying Curtis Hoosier, Police Sergeant, of his 40-hr suspension, effective July 23, 2012. (NOTIFICATION)

NOTIFIED

- D.2** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Yoslan Marrero, Police Officer, of his 20-hr suspension, effective July 24, 2012. (NOTIFICATION)

NOTIFIED

- D.3** Copy of a letter from Chief Maurice Kemp, Director, Department of Fire-Rescue, notifying Sean Latterner, Firefighter, of his 24hr forfeiture, effective June 22, 2012. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

- E.1** Copy of Findings of Fact in the Appeal Hearing of Deborah Hudson, Typist Clerk III, relative to her 80-hour suspension, effective January 31, 2011. (DISCUSSION) Deferred from the meeting of July 24, 2012.

Chairman Silverman asked Attorney Braverman if he had an opportunity to review the findings. Michael Braverman, Attorney on behalf of Deborah Hudson, responded in the affirmative. He went on to say that he advised the Board previously that he was out of town so he apologizes for failing to submit his changes and/or objections to the findings. Attorney Braverman further stated that he did have the document with him today that he believed was submitted by the department as its findings of fact and that he had at least four amendments he wished to add to the findings. Chairman Silverman asked if opposing counsel received a copy of his recommended changes to the findings. Attorney Braverman responded in the negative. He went on to say that he received the findings late Friday when he returned from vacation. Chairman Silverman suggested that Attorney Braverman submit his changes for Board consideration at the next meeting, but if the changes were minor the Board could consider the changes today.

Member Harris asked Attorney Braverman if his suggested changes to the findings were minor. Attorney Braverman responded in the affirmative. Chairman Silverman stated that he preferred Attorney Braverman put his changes in writing for the purpose of giving

the opposing side an opportunity to review his suggested changes and subsequently the Board would consider the findings at its next meeting. There being no objection, this item was deferred.

DEFERRED : Chairman Silverman instructed the Executive Secretary to reschedule this item to the August 21, 2012 meeting for Board consideration.

E.2

Copy of Findings of Fact concerning the Grievance Hearing on behalf of Corina S. Esquijarosa, former Sr. Project Representative, pursuant to Rule 16.2, alleging a violation of Rules 12.1, 14.1 and 17, as it concerns her layoff, effective September 23, 2011. (DISCUSSION)

Deferred from the meeting of July 24, 2012.

The Board proceeded to consider discussion on the findings of fact in the matter of Corina Esquijarosa and in doing so, Ms. Esquijarosa asked that Member Lago excuse himself from voting on this item since he did not participate in the hearing. Taking into consideration Ms. Esquijarosa's request, the Board proceeded to hear from both sides regarding their positions on the recommended changes to the findings. Following discussion, the Board entered a motion to APPROVE the findings of fact as amended.

Prior to taking the vote, Ms. Esquijarosa asked if a copy of the meeting minutes would be submitted to the City Manager upon his review of the findings of fact. Chairman Silverman deferred to the Executive Secretary and asked if she normally included a copy of the minutes in the packet to the City Manager for his review. The Executive Secretary responded in the affirmative. Following discussion, the motion on the floor to approve the Findings of Fact as amended, resulted as follows:

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

Aye: Silverman, Moy, Gomez and Harris

Abstain: Lago

E.3

Request for an Appearance before the Board, from Mark Berkowitz, Attorney, concerning the Whistleblower Hearing on behalf of Glenn Marcos, former Director of Purchasing, relative to his untimely amended request. (DISCUSSION)

Having noted that Attorney Berkowitz was not present, Chairman Silverman asked the Executive Secretary if she heard from him. The Executive Secretary responded in the negative. Chairman Silverman asked if Attorney Berkowitz was notified concerning this item on today's agenda. The Executive Secretary responded in the affirmative.

Without objection, this matter was deferred to the Board's next meeting.

DEFERRED : Chairman Silverman instructed the Executive Secretary to reschedule this item for discussion at the Board's August 21, 2012 meeting with the understanding that this matter will no longer be heard if Attorney Berkowitz fails to appear.

F. REPORTS**F.1**

Pending Hearings as of August 7, 2012. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS**G.1** Copy of a Request for Hearing from Michael Braverman, Attorney, on behalf of Marly Saldarriaga, Public Service Aide, concerning her termination, effective July 10, 2012. (DISCUSSION)

Michael Braverman, Attorney at Law on behalf of Marly Saldarriaga, stated that he was before the Board at the request of the Executive Secretary via her letter dated July 24, 2012 to discuss the basis of Ms. Saldarriaga's separation from employment. He went on to say that he objected to the fact that his client was placed in a position to somehow figure out why she was separated from employment when the employer had not set forth any rule or regulation as the basis for the separation. Attorney Braverman further stated that he had no informative letter from the department or Immigration and Naturalization Services (INS) that supported the bald statement made in the separation letter that his client is not eligible to work in the United States. He stated that he stands before the Board at a loss as to how he can present to the Board anything clearly when the department could have cited under the Civil Service Rules the minimal qualifications for employment if that was the basis of their action. Attorney Braverman went on to say the bottom line is he is before the Board because his client was separated from employment, she was told there was some basis for the separation, which she frankly disputed, and that she had not been provided one piece of information from the INS, Department of Homeland Security or anyone else that supports this allegation. He further stated that the President of AFSCME-Local 1907 had been in contact with the City to find out what was going on with this case and he was given no documentation.

Chairman Silverman asked for the department's position. ACA Richard responded that Ms. Saldarriaga is fully aware of her immigration status so in an effort to be discreet, the department refrained from putting too much information into the separation letter. She went on to say that the Police Department received a telephone call from the Department of Homeland Security that Ms. Saldarriaga was not eligible to work or even reside in the United States. ACA Richard further stated that Ms. Saldarriaga objected to an INS case where she was subject to removal proceedings and she was arrested for marriage fraud.

Chairman Silverman asked the department's attorney to explain why she believed Ms. Saldarriaga was not entitled to a hearing before the Civil Service Board. ACA Richard responded that Ms. Saldarriaga was not terminated for violating any Civil Service Rules rather she was terminated because she was not authorized to work in the United States. She went on to say that if an employer received a call from the Department of Homeland Security advising that one of its employees was not eligible to work in the United States, the employer cannot continue to employ the individual. ACA Richard reiterated that Ms. Saldarriaga was not terminated for cause or for violating any Civil Service Rules rather she was not authorized to work in the United States; therefore she is not authorized to work for the City of Miami. Chairman Silverman asked again if Ms. Saldarriaga was entitled to a hearing before the Board. ACA Richard responded that she did not think Ms. Saldarriaga was entitled to a hearing before this Board because there was no violation of a Civil Service Rule. Chairman Silverman asked if Ms. Saldarriaga would be entitled to a hearing anywhere else or was the Board to say to the employee, "See you and good luck!". ACA Richard responded she did not know the answer. Chairman Silverman stated Ms. Saldarriaga is still in the United States and is entitled to due process. ACA Richard responded that she understood the Chairman's position, but the purpose for coming before the Board is when it has been alleged that an employee violated a Civil Service Rule, but Ms. Saldarriaga violated Federal Law by continuing to be employed without having a legitimate, legal status to work or reside in the United States.

Chairman Silverman asked to hear from the employee's attorney. Attorney Braverman responded that the department made another representation that it agreed that his client's separation was based upon a phone call received from the Department of Homeland Security. He went on to say that he thought Chairman Silverman hit the nail on the head and he believed it was clear to the other Board Members that it would be the department's burden to prove Ms. Saldarriaga's immigration status in some way, shape, or form. Attorney Braverman further stated there are a host of rules that could have been cited (in the separation letter) such as minimum qualifications to be a Civil Service employee that would allow the Board to say that the department had in fact claimed a violation of a Civil Service Rule and if not, the department could have cited misconduct of a Federal law. He stated that the Board has cases all of the time involving law violations that are also violations of rules and regulations that are relative to discretion, misconduct, or a host of other general rules. Attorney Braverman went on to say that violating Federal law is one of the enumerated basis for taking disciplinary action so he can only conclude that the department was somehow trying to evade its responsibility to provide his client, a long-term, permanent employee a hearing regarding the allegations.

In response to Attorney Braverman's comments, ACA Richard stated that she would have liked to hear the host of rules that Attorney Braverman stated he could cite in the Civil Service Rules because there is no rule that says a violation of a Federal law is grounds for termination. She went on to say that she would like to see Attorney Braverman travel under Rule 16 to prove that the department violated some other rule because that would be different and she would also like to know what host of rules included under Rule 14 that the department could cite before terminating an employee who illegally resides in the United States.

Attorney Braverman responded that he did not have the burden in this case. He went on to say that it has now been made clear that the employer can make a bald allegation, include nothing of substance in writing, and he in turn has to fight to determine whether his client is entitled to a hearing. Attorney Braverman further stated that Ms. Saldarriaga was not a probationary employee, the department took disciplinary action against her in the form of a termination which was set forth as the basis in Rule 14 (which entitles an employee to a hearing before the Board.) He stated that this was a circular argument because if the department chose not to cite a basis, then the employee does not get a hearing, which was clearly putting the cart before the horse. Attorney Braverman went on to say there are a litany of rules that sets forth cause for discipline and that the department has routinely cited law violations as conduct violations to bring it before this Board as a basis for their action to terminate the employee.

Chairman Silverman stated that he believed the Board has the picture about this case and stated that he would now like to entertain discussion from Board Members, but before doing so, he will say that the employee is entitled to a hearing and would suggest that the Board grant an investigation hearing or have the employee submit documentation detailing the basis for an investigation. He went on to say that the department cannot just dismiss an employee because someone received a phone call and not afford the employee a hearing.

Cynthia A. Everett, Special Counsel to the Board, advised the Board that whatever rule is being travelled under, there needed to be a specification of the alleged rule violation.

Chairman Silverman advised Attorney Braverman that he would need to provide the Board with a letter (concerning his client's request for a hearing pursuant to Rule 16). Attorney Braverman responded his thought was that the Board would direct the employer to set forth with specificity the basis for Ms. Saldarriaga's immigration status and if he needed to file a motion to clarify what it is he needs from the department, he

could do just that. He went on to say that his client's termination letter lacked specificity and was the most brief letter he had ever seen in the dismissal of a public employee so there was no way he should not be able to fight what the department presented in the termination letter.

Chairman Silverman asked Special Counsel what she would recommend the Board do concerning this case. Special Counsel Everett responded that she did not see any jurisdiction so she would ask that counsel be specific as to citing a rule violation and the Board could then determine if there was anything to investigate or whether to hold a hearing under Rules 14 or 16. She went on to say that at a minimum she would recommend this matter be deferred to the next meeting to give counsel an opportunity to make his client's case.

Member Harris asked Attorney Braverman if he was at least citing Rule 14 (as being violated). Attorney Braverman responded in the affirmative. Chairman Silverman responded that Attorney Braverman needed to submit his request in writing to the Board based upon the position of the Board's Special Counsel. Attorney Braverman asked if the department would be submitting any other specificity relative to their action because there are definitions that are clearly set out in the Civil Service Rules that require someone to have minimum qualification for employment.

Chairman Silverman advised Attorney Braverman that this matter would be deferred to the Board's next meeting so he needed to notify the Board in writing whatever it is he wanted, and at that time the Board will know the department's position after considering his written request and then make a decision at that time.

Member Moy stated that he felt a hearing should be granted today rather than carrying this matter over to the next meeting. He went on to say that the department terminated Ms. Saldarriaga based upon a phone call so the burden of proof is on the City.

ACA Richard stated that the termination of Ms. Saldarriaga was not based on a phone call. She went on to say that the Department of Homeland Security contacted the police department as a part of their investigation. Chairman Silverman stated the Board understood ACA Richard was not contacted personally rather the Department of Homeland Security contacted the police department and as a result of the phone call, the employee was terminated. For clarification purposes, ACA Richard stated the Department of Homeland Security contacted the police department and subsequently sent a representative to review Ms. Saldarriaga's personnel file. She went on to say that the Department of Homeland Security conducted an investigation and as a result, it was determined that she was not authorized to work in the United States. Chairman Silverman stated he understood that as a result of the Department of Homeland Security's investigation, Ms. Saldarriaga was terminated; however, the question was whether Ms. Saldarriaga was entitled to a hearing before the Civil Service Board. He went on to say that the suggestion of the Board's Special Counsel was to carry this matter over to the next meeting to allow Attorney Braverman an opportunity to make his case.

Member Harris stated when Attorney Braverman asked for documentation (to prove that his client was not authorized to work in the United States), so why wasn't the department able to produce the document? ACA Richard responded that no one to her knowledge had asked for documentation and she had no record of anyone contacting the police department requesting additional information. She went on to say the bottom line is if Attorney Braverman were to speak with his client, he would find that she is well aware of her immigration status, that she was arrested, that she has an open, pending immigration case where she will be removed and possibly deported from the United States. ACA Richard further stated for Attorney Braverman to come before the Board to

say that he does not know the immigration status of his client is inaccurate.

Member Harris stated in the past, there had been people arrested in the City who were informed in writing of the basis for their pending termination.

Following discussion, the Board entered a motion to grant a hearing. The motion died for lack of a second. The motion having failed, Member Harris stated that she would move to have an investigation hearing conducted by the Chief Examiner pursuant to Rule 14. Special Counsel Everett stated based upon what she heard, she believed that Member Harris was suggesting a hearing be conducted pursuant to Rule 16.1, which is usually triggered by an allegation that a particular rule, procedure, or policy was violated. Member Harris stated based upon comments made by Attorney Braverman, it appeared to her that a hearing pursuant to Rule 14 would be appropriate.

Following further discussion, the Board entered a motion to grant an Investigation Hearing into the reasons behind the employee's termination, and for the Chief Examiner to conduct a preliminary investigation and report his findings to the Board. Under discussion, Chairman Silverman stated he personally thought the Board should defer this matter to the next meeting rather than grant a hearing today. Following discussion, the motion on the floor to grant a preliminary investigation resulted as follows:

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

Aye: Silverman, Moy, Gomez, Lago and Harris

H. TODAY'S HEARINGS

H.1 Hearing appeal on behalf of Ansonia Chatfield, Emergency Dispatcher, relative to her 120-hour suspension, effective July 7, 2011.

The Board entered into the scheduled hearing of appeal on behalf of Ansonia Chatfield, the Appellant.

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

Michael Braverman, Attorney at Law, represented the Appellant.

Both attorneys presented opening statements. The Rule of Witnesses was invoked and all witnesses were sworn in individually. Witnesses for the Department appeared in the following order:

1. Helene Lugo, Emergency Dispatch Supervisor, City of Miami, Department of Police. Questions were posed by Board Members Harris, Moy, and Lago during the testimony of Helene Lugo.

2. Thomas Visney, Sergeant of Police, City of Miami, Department of Police. Questions were posed by Board Members Harris and Moy during the testimony of Thomas Visney.

The City rested its case. Attorney Braverman recalled Helene Lugo for further questioning. Questions were posed by Board Member Harris during the testimony of Helene Lugo.

Witnesses for the Appellant appeared in the following order:

Ansonia Chatfield, Communications Operator, City of Miami, Department of Police, testified on her own behalf. Questions were posed by Board Member Harris during the

testimony of Ansonia Chatfield.

The Appellant rested her case and the Department waived rebuttal. The Board proceeded to closing argument and both attorneys presented their position on the case. Following final argument, Chairman Silverman stated that there were 14 violations included in the charging document and that he did not see the reason the department would have included them all other than to throw them all up against a wall in hopes that something stuck.

Chairman Silverman asked if there were any motions or discussion from Board Members on this case. Member Moy responded that he thought there were some violations (committed by the Appellant) and courtesy was certainly one of them. He went on to say that he also felt that the Communications Unit opened itself up for things to happen by not administering overtime based upon seniority. Member Moy further stated he took into consideration (former) Commander Eugene's addendum to the reprimand and as he read it, his thought was that although Commander Eugene agreed that Ms. Chatfield should be disciplined, he did not agree that she should be terminated, but instead serve a 120-hour suspension. He stated there were 14 violations cited in Ms. Chatfield's reprimand (and by taking this approach) the department made it seem as though a whole lot more occurred during the incident than what really happened. Member Moy went on to say that Sgt. Visney's testimony was very confusing as it related to the issue of changing Emergency Dispatch Supervisor Lugo's working hours because he testified that Supervisor Lugo's hours were changed the day of the (Ultra Fest) event and Supervisor Lugo testified that her hours were changed days in advance of the event so someone was not being truthful. He further stated that he thought Ms. Chatfield was truthful when she testified that something was going on with regards to the break-up of shifts (between Supervisor Lugo and Emergency Dispatcher Lawson) at the last minute. Member Moy stated that at the end of the day Supervisor Lugo had the responsibility of making sure she had a full staff in the Communications Unit rather than finding someone to work a portion of the event so that she could also get overtime by working the Ultra Fest event. He went on to say that Ms. Lugo is a supervisor and she knows how things worked in Communications so she should have assigned personnel to work the Ultra Fest event according to seniority. He stated had Supervisor Lugo arranged things where persons would have been selected to work the event according to seniority, then Ms. Chatfield probably would have had an opportunity to work the event.

Chairman Silverman stated that Ms. Chatfield was given an order (by her direct supervisor) that was not up for discussion or debate. He went on to say that Ms. Chatfield was told to [staff Channel 3] and she refused to do so and suddenly decided that she would become the internal auditor of the department to find out whether someone was double-dipping or not. Chairman Silverman further stated that a department cannot run in a manner such that each time an employee is asked to do something that employee wants to have a discussion or debate the matter.

Following the conclusion of the fact-finding phase of the Appellant's hearing, the Board proceeded to vote for a finding of guilty or not guilty on the 14 violations cited in the charging document. The Board entered a motion to find the Appellant GUILTY of Charge #1, Departmental Order 1.11.6.13.11 - Courtesy Towards Others. The motion resulted as follows:

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

Aye: Silverman, Moy, Gomez, Lago and Harris

The Board entered a motion to find the Appellant GUILTY of Charge #2 - Departmental Order 1.11.6.13.12 - Obeying/Executing Orders. The motion resulted as follows:

Motion by Member Harris, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Moy, Gomez, Lago and Harris

The Board entered a motion to find the Appellant GUILTY of Charge #3 - Departmental Order 1.11.6.17.2 - Disobedience. The motion resulted as follows:

Motion by Member Gomez, seconded by Member Lago, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Moy, Gomez, Lago and Harris

The Board entered a motion to find the Appellant GUILTY of Charge #4, Departmental Order 1.11.6.17.8 - Insubordination. The motion resulted as follows:

Motion by Member Harris, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Moy, Gomez, Lago and Harris

The Board entered a motion to find the Appellant GUILTY of Charge #5 - Departmental Order 1.11.6.17.33 - Neglect or Refusal to Comply. The motion resulted as follows:

Motion by Member Gomez, seconded by Member Harris, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Moy, Gomez, Lago and Harris

The Board entered a motion to find the Appellant GUILTY of Charge #6 - Departmental Order 1.11.6.18.2 - Duty Responsibilities. The motion resulted as follows:

Motion by Member Lago, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Gomez, Lago and Harris

No: Moy

The Board entered a motion to find the Appellant GUILTY of Charge #7 - Departmental Order 1.11.6.28.3 - Members/Civilians to Conform. The motion resulted as follows:

Motion by Member Gomez, seconded by Member Harris, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Gomez, Lago and Harris

No: Moy

The Board entered a motion to find the Appellant GUILTY of Charge #8 - Departmental Order 1.11.6.32.4 - Carrying out Orders. The motion resulted as follows:

Motion by Member Gomez, seconded by Member Harris, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Gomez, Lago and Harris

No: Moy

The Board entered a motion to find the Appellant GUILTY of Charge #9 - Civil Service Rule 14.2(e)(1) - Loss/Injury to the City. The motion resulted as follows:

Motion by Member Harris, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Moy, Gomez, Lago and Harris

Rule 14.2(e)(2) - Breach of Proper Discipline. The motion resulted as follows:

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

Aye: Silverman, Gomez, Lago and Harris

No: Moy

The Board entered a motion to find the Appellant NOT GUILTY of Charge #11. The motion died for lack of a second. The motion having died, the Board entered a motion to find the Appellant GUILTY of Charge #11 - Civil Service Rule 14.2(e)(3) - Loss/Injury to the City. The motion resulted as follows:

Motion by Member Lago, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Gomez, Lago and Harris

No: Moy

The Board entered a motion to find the Appellant GUILTY of Charge #12 - Civil Service Rule 14.2(h) - Disgraceful Conduct. The motion resulted as follows:

Motion by Member Gomez, seconded by Member Lago, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Gomez, Lago and Harris

No: Moy

The Board entered a motion to find the Appellant NOT GUILTY of Charge #13 - Civil Service Rule 14.2(i) - Offensive Conduct/Language. The motion resulted as follows:

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

Aye: Silverman, Moy, Gomez, Lago and Harris

The Board entered a motion to find the Appellant GUILTY of Charge #14 - Civil Service Rule 14.2(r) - Antagonistic Towards Superiors. The motion resulted as follows:

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

Aye: Silverman, Gomez, Lago and Harris

No: Moy

The Appellant having been found guilty of some of the charges, the Board proceeded to the penalty phase of Ms. Chatfield's hearing. Ms. Chatfield's official personnel file was reviewed which revealed two (2) commendations, one (1) reprimand, and one (1) suspension. The personnel file also revealed that the Appellant's employment was terminated effective, October 20, 2011 (appealed 2/21/12).

The Board proceeded to closing argument and both attorneys presented their positions on the penalty. Following closing argument, the Board entered a motion to recommend to the City Manager that the Appellant serve a 40-hour suspension in lieu of the 120-hour suspension imposed by the department director. The motion resulted as follows:

Motion by Chief Examiner Moy, seconded by Member Harris, that this matter be APPROVED. FAILED by the following vote.

Aye: Moy and Harris

No: Silverman, Gomez and Lago

The motion having failed, the Board entered a motion to recommend to the City Manager that the 120-hour suspension imposed by the department director be upheld. The motion resulted as follows:

Motion by Member Lago, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.

Aye: Silverman, Gomez and Lago

No: Moy and Harris

The appeal hearing of Ansonia Chatfield having concluded, in accordance with Civil Service Rule 14, Findings of Fact and Recommendations will be prepared for approval by the Board, and ultimately forwarded to the City Manager for his rendering of a judgment in this case.

H.2

Grievance hearing on behalf of Alejandro Pascual, Building Inspector I, pursuant to Civil Service Rule 16.2, concerning a violation of Rule 12, Layoff, Resignation, and Reinstatement.

Chairman Silverman asked Attorney Braverman if he was prepared to go forward with the hearings of Alejandro Pascual (Item H.2) and Frank Rodriguez (Item H.3). Attorney Braverman responded he is ready to go forward today but he believed there were procedural issues that the Board needed to address because the City filed a Motion to Quash Subpoena in both cases. He went on to say that approximately two weeks ago he sent an email to ACA Richard advising that based on the short schedule and other items that were on the Board's agenda for consideration, he would be prepared to go forward with Ansonia Chatfield's case because he thought there would not be sufficient time to start the hearings of Alejandro Pascual and Frank Rodriguez. Attorney Braverman further stated that he did not hear from ACA Richard and that it was late last week he received the Motions she filed to quash subpoenas in both cases.

Chairman Silverman asked the department's attorney if she was prepared to go forward with the hearings of Alejandro Pascual and Frank Rodriguez today. ACA Richard responded in the affirmative. She went on to say that she did respond to Attorney Braverman advising via email that whatever order he decided to hear the cases was fine with her. Attorney Braverman responded that he did not receive ACA Richard's email.

Chairman Silverman stated there was no way the Board would have sufficient time to hear all three cases today so he would suggest excusing the witnesses subpoenaed for the hearings of Alejandro Pascual and Frank Rodriguez because the Board has to vacate the Commission Chambers by 2:30 p.m. Attorney Braverman stated that continuing the two cases would be very helpful to him because that would give him an opportunity to respond specifically to the Motions regarding the quashing of the subpoenas. He went on to say if the City was willing to make certain stipulations that he believed were alluded to in the Motions in a forum where he believed this Board could make findings of fact, instead of just being based on a motion that is unsworn, he might not need those witnesses.

Following discussion, Chairman Silverman stated that the Board was going to take a break and afterwards start Ansonia Chatfield's hearing. He went on to say that during the break, Attorney Braverman could discuss with ACA Richard his issues about the

Motions and if they were not able to resolve the matter, the Board would hear from both sides on the Motions.

CONTINUED : A continuance was charged to the Board due to insufficient time to hear this case. The hearing will be rescheduled to a future meeting date.

H.3

Grievance Hearing on behalf of Frank Rodriguez, Building Inspector I. pursuant to Rule 16.2, alleging a violation of Rule 12.1, as it concerns a violation of Rule 12, Layoff, Resignation, and Reinstatement.

CONTINUED : A continuance was charged to the Board due to insufficient time to hear this case. The hearing will be rescheduled to a future meeting date.

ADJOURNMENT:

The meeting ADJOURNED at 2:28 p.m. Breaks were taken at 10:36-10:46 a.m., 11:28-11:35 a.m., and 1:36-1:48 p.m.

SIGNATURE:

Gerald Silverman, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary