

City of Miami

*City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com*



Meeting Minutes

Tuesday, October 16, 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: Chairperson Silverman, Chief Examiner Moy, Member Harris and Member Gomez

Absent: Member Lago

NOTE: Member Lago arrived at 10:30 a.m. and a new roll call took place which identified all Members as being present.

A. APPROVING THE MINUTES OF:

Regular Meeting of September 18, 2012.

The Board entered a motion to APPROVE the minutes of September 18, 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 and Harris

Absent: Lago

B. PERSONNEL MATTERS

- B.1** Copy of a letter from Beverly Pruitt, Director, Department of Human Resources, confirming Latoya Mathis', CIS Desk Operator, Department of Police, voluntary return to her former classification of Typist Clerk III, Department of Police, effective September 17, 2012. (NOTIFICATION)

NOTIFIED

- B.2** Copy of a memorandum from Beverly Pruitt, Director, Department of Human Resources, confirming Rafael Galvez', Finance Accounting Specialist, Department of Finance voluntary return to his former classification of Code Enforcement Inspector, Department of Code Enforcement, effective October 10, 2012. (NOTIFICATION)

NOTIFIED

- B.3** Copy of memorandum from Beverly Pruitt, Director, Department of Human Resources, confirming Helene Lugo's, Emergency Dispatcher Supervisor, Department of Police, voluntary return to her former classification of Emergency Dispatcher, Department of Police, effective September 30, 2012. (NOTIFICATION)

NOTIFIED

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

- D.1** Copy of letter from Chief Manuel Orosa, Director, Department of Police, notifying Jean Marie Jean-Philippe, Police Officer, of his 80-hour suspension, effective September 9, 2012. (NOTIFICATION)
NOTIFIED
- D.2** Copy of letter from Chief Manuel Orosa, Director, Department of Police, notifying Michael New, Police Officer, of his 10-hour suspension, effective September 25, 2012. (NOTIFICATION).
NOTIFIED
- D.3** Copy of letter from Chief Manuel Orosa, Director, Department of Police, notifying Juan Nodal, Police Officer, of his 20-hour forfeiture, effective September 20, 2012. (NOTIFICATION).
NOTIFIED
- D.4** Copy of letter from Chief Manuel Orosa, Director, Department of Police, notifying Jonathan John, Police Officer, of his 20-hour forfeiture, effective September 20, 2012. (NOTIFICATION).
NOTIFIED
- D.5** Copy of letter from Chief Manuel Orosa, Director, Department of Police, notifying Juan C. Herrera, Police Officer, of his 20-hour forfeiture, effective September 20, 2012. (NOTIFICATION).
NOTIFIED
- D.6** Copy of letter from Chief Manuel Orosa, Director, Department of Police, notifying Francisco Castillo, Police Officer, of his 10-hour forfeiture, effective September 15, 2012. (NOTIFICATION).
NOTIFIED
- D.7** Copy of letter from Keith Carswell, Director, Department of Solid Waste, notifying Arthur Smith, Waste Collector Operator I, of his 8-hour forfeiture, effective September 5, 2012. (NOTIFICATION).
NOTIFIED
- D.8** Copy of a letter from Zzeribe (Zerry) Ihekwa, Director, Department of Public Works, notifying Roberto J. Gonzalez, Labor Crew Leader II, of his 3-day suspension, effective September 24, 2012. (NOTIFICATION)
NOTIFIED
- D.9** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Wilfredo Alfonso, Police Officer, of his 10-hour forfeiture, effective

September 13, 2012 and a copy of a request to appeal from Officer Alfonso. A hearing of appeal will be scheduled in accordance with Civil Service Rules and Regulations. (NOTIFICATION)

RECEIVED AND FILED

- D.10** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Jesus Pedraza, Police Officer, of his 80-hr suspension, effective September 8, 2012 and a request to appeal from Officer Pedraza. A hearing will be scheduled in accordance with Civil Service Rules and Regulations. (NOTIFICATION)

RECEIVED AND FILED

- D.11** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Nicolas Perez, Police Officer, of his 10-hour forfeiture, effective August 22, 2012. (NOTIFICATION)

NOTIFIED

- D.12** Copy of letter from Keith Carswell, Director, Department of Solid Waste, notifying Wilner Etienne, Waste Collector Operator I, of his 8-hour forfeiture, effective September 21, 2012. (NOTIFICATION).

NOTIFIED

- D.13** Copy of letter from Keith Carswell, Director, Department of Solid Waste, notifying Louissius Petitfrere, Waste Equipment Operator, of his 8-hour forfeiture, effective September 26, 2012. (NOTIFICATION).

NOTIFIED

- D.14** Copy of letter from Keith Carswell, Director, Department of Solid Waste, notifying Leroy Rivas, Waste Collector Operator I, of his 8-hour forfeiture, effective September 27, 2012. (NOTIFICATION).

NOTIFIED

- D.15** Copy of letter from Keith Carswell, Director, Department of Solid Waste, notifying Clifford Holzendorf, Waste Equipment Operator, of his 8-hour forfeiture, effective September 26, 2012. (NOTIFICATION).

NOTIFIED

- D.16** Copy of letter from Keith Carswell, Director, Department of Solid Waste, notifying Peter Loreda, Waste Equipment Operator I, of his demotion, effective September 27, 2012. (NOTIFICATION).

NOTIFIED

E. GENERAL ITEMS

E.1

Notice of a Settlement Agreement relative to the Appeal Hearing of Jean Marie Jean-Philippe, Police Officer, concerning his 80-hour suspension, effective March 29, 2010. (DISCUSSION)

Chairman Silverman asked for the status of the settlement between the City of Miami Police Department and Officer Jean Marie Jean-Philippe. Jon Kreger, Attorney on behalf of Officer Jean-Philippe responded that the settlement was executed and enroute to the City Attorney's Office for review and signature so he believes that the settlement will be finalized shortly.

Chairman Silverman asked Assistant City Attorney (ACA) Richard if she wished to say anything regarding the settlement. ACA Richard responded in the negative.

Following discussion, Chairman Silverman stated that no action was required by the Board on this matter.

DISCUSSED : 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.

E.2

Copy of Findings of Fact in the Appeal Hearing of Marcel Jackson, Police Officer, relative to his 30-hour suspension, effective March 23, 2012. (DISCUSSION)

Chairman Silverman asked if Officer Jackson was present. The Executive Secretary responded in the negative. She went on to say that Officer Jackson did receive a copy of the findings; however, she had not heard from him.

Chairman Silverman asked ACA Richard if she had any objections to the the Findings and Recommendation Report prepared by the Board's Special Counsel, Cynthia Everett. ACA Richard responded in the negative. Following discussion, the Board entered a motion to APPROVE the Findings and Recommendation Report in the matter of Officer Marcel Jackson which 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 and Harris

Absent: Lago

E.3

Notice of a Settlement Agreement relative to the Appeal Hearing of Johnny Brutus, Police Officer, relative to his 20-hour suspension, effective September 10, 2011. (DISCUSSION)

Rescheduled pursuant to continuance policy; pending settlement since September 4, 2012.

Jon Kreger, Attorney at Law on behalf of Officer Johnny Brutus stated that he was still working on the language in the settlement agreement, but he believed he should have it completed within the next couple of days.

Chairman Silverman asked ACA Richard if she wished to say anything regarding the settlement agreement. ACA Richard responded in the negative.

DEFERRED : Chairman Silverman instructed the Executive Secretary to reschedule this item to a future Board meeting date. **NOTE:** As with all pending settlements, this case will be closed and removed from the Board's docket upon receipt of written agreement; however, if the settlement is not received in a timely manner Officer Brutus' case will be rescheduled in accordance with the Board's Continuance Policy.

E.4

Copy of a Report concerning the Grievance Hearing of Alejandro Pascual, former Building Inspector I, pursuant to Civil Service Rule 16.2, concerning a violation of Rule 12, Layoff, Resignation, and Reinstatement. (DISCUSSION)

Attorney Braverman stated that he made proposed changes to the Findings of Fact report that was prepared by Special Counsel Everett. He went on to say that he emailed his changes to ACA Richard this past Sunday so he apologizes that he did not send the document sooner.

Chairman Silverman asked opposing counsel if she had an opportunity to review the suggested changes submitted by Attorney Braverman. ACA Richard responded that she did receive Attorney Braverman's email on Sunday, but she did not have an opportunity to review the changes.

DEFERRED : Without objection from Board Members, Chairman Silverman instructed the Executive Secretary to carry over this item to the next meeting for Board consideration.

E.5

Copy of a Report concerning the Grievance Hearing of Frank Rodriguez, former 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. (DISCUSSION)

Chairman Silverman asked Attorney Braverman if he was also delayed in sending his proposed changes to opposing counsel in this case. Attorney Braverman stated that he also made proposed changes to theses Findings of Fact and that he emailed his changes to ACA Richard this past Sunday so he apologizes that he did not send the document sooner.

Chairman Silverman asked opposing counsel if she had an opportunity to review the suggested changes submitted by Attorney Braverman. ACA Richard responded that she did receive Attorney Braverman's email on Sunday, but she did not have an opportunity to review the changes.

DEFERRED : Without objection from Board Members, Chairman Silverman instructed the Executive Secretary to carry over this item to the next meeting for Board consideration.

E.6

Copy of a Report concerning the Grievance Hearing of Min-Li Nar, former Process Design Analyst, pursuant to Rule 16.1 and 16.2, alleging a violation of Rule 12. (DISCUSSION)

Teri Guttman-Valdes, Attorney at Law on behalf of Min-Li Nar, stated that she did not have any changes to make to the findings as prepared by the Board's Special Counsel.

Chairman Silverman asked opposing counsel if she had any changes she wished to make to the findings of fact report. ACA Richard responded in the negative. Following discussion, the Board entered a motion to APPROVE the Findings of Fact and Recommendation report which 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 and Harris

Absent: Lago

F. REPORTS

F.1 Pending Hearings as of October 16, 2012. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS

G.1 Copy of a Request for Hearing from Teri Guttman Valdes, Attorney, on behalf of Min-Li Nar, Process Design Analyst (former), for a Grievance Hearing, pursuant to Rule 16.1 and 16.2, alleging a violation of Rule 12, concerning a recent recruitment for the classification of Financial Information Business Process Analyst. (DISCUSSION)Deferred from the meeting of August 21, 2012.

Attorney Guttman-Valdes stated that Ms. Nar was previously employed in the classified position of Business Process Analyst and was subsequently promoted to the position of Process Design Analyst. She went on to say that those two positions have identical salary ranges and similar functions and qualifications, and she had copies of this information if anyone needed to review it. Attorney Guttman-Valdes further stated as a result of Ms. Nar's layoff, her name was placed on a layoff register for 3 years, but unfortunately when the City had a need to fill the (Process Design Analyst) position, it created a new classification. She stated that Ms. Nar could have been returned to either of the two positions but what the City essentially did was create a [new position entitled] Financial Information Business Process Analyst in March 2012, that contained (requirement and function) components of both the Business Process Analyst and Process Design Analyst positions. Attorney Guttman-Valdes further stated they believed this was done in order to avoid bringing back someone who held classified and reinstatement rights. She stated since the City already had certain existing positions, there was no need to create the same position under another classification to avoid bringing back someone that was laid off; which was wrong. She went on to say that they are requesting a hearing because they believe that the City violated Rule 12.2

Chairman Silverman asked for opposing counsel's position on this matter. ACA Richard responded that Ms. Nar's hearing was conducted by the Board some months ago and during the hearing, the Board learned the type of duties Ms. Nar performed, that she was a Process Design Analyst in the Information Technology Department (ITD), and in the end, this Board ruled that she was properly laid off. She went on to say that prior to Ms. Nar being laid off, it was determined that no other Process Design Analyst position existed City-wide and her name was therefore placed on a layoff register. ACA Richard further stated that if the City decided sometime within the next 36 months to create a Process Design Analyst position, Ms. Nar by virtue of being on a layoff register would have an opportunity to fill that position. She stated the position that opposing counsel alluded to is a specialty position housed in the Finance Department that requires a person to have a considerable working knowledge of finance and payroll issues which was different from Ms. Nar's position in ITD. She stated the Financial Information Business Process Analyst was created under the former Director of Finance, Pete Chircuit. She stated at that time, Mr. Chircuit had a Chief Accounting position that he

converted into the Financial Information Business Process Analyst position; however, recently, the City hired the new Finance Director, Stephen Petty, and he decided to reclassify the position to another classification; so at this time, the newly created position is in the process of being eliminated. ACA Richard went on to say that the Supervisor of Classification & Pay, Ricardo Martinez, was available to speak on (the reclassification issue) if anyone had any questions. She further stated that the bottom line is the Financial Information Business Process Analyst position that Attorney Guttman-Valdes argued her client should be hired into by virtue of being on the layoff register, no longer exists. ACA Richard stated there was a recruitment for the new position, but the process was stopped and the position will not be filled. She went on to say that she did not know what the Financial Information Business Process Analyst classification would be changed to because the audit was not complete.

Attorney Guttman-Valdes stated that the halt on filling the Financial Information Business Process Analyst position came about after her client filed a grievance. Chairman Silverman stated Attorney Guttman-Valdes' response was moot because there was no position (to hire her client into) so there was no purpose for a hearing. Attorney Guttman-Valdes stated that subject to the City's announcement for the position and not filling it, she would like to preserve her right to return to the Board. Chairman Silverman asked counsel if she was withdrawing her request. Attorney Guttman-Valdes responded in the affirmative.

WITHDRAWN : No further action required.

G.2

Copy of a Request for Hearing from Teri Guttman-Valdes, Attorney, on behalf of Elba Valdes, Police Officer (retired), pursuant to Civil Service Rule 16.1 Investigation Hearing and 16.2 Grievance Hearing.
(DISCUSSION)Deferred from the meeting of August 21, 2012.

Attorney Guttman-Valdes stated that her client, Elba Valdes, could not be present but she wanted to move forward with her request today insomuch that this matter has been pending for a while. She went on to say that what transpired in her client's case was Ms. Valdes received a reprimand on May 14, 2012 recommending a significant suspension and loss of privileges of her take-home vehicle. Attorney Guttman-Valdes further stated (as a result of the discipline), Ms. Valdes requested a hearing before the Departmental Disciplinary Review Board (DDRB) on May 14, 2012. She stated Ms. Valdes subsequently had a conversation via the Fraternal Order of Police (FOP) that the Police Chief advised that he would not move to terminate her if she were to withdraw her DDRB request and accept the 200-hour suspension and 6-month suspension of her take-home vehicle. Attorney Guttman-Valdes went on to say in accordance with the Police Chief's offer that was conveyed to Ms. Valdes via the FOP, she submitted a memo dated May 22, 2012 withdrawing her request for a DDRB hearing. She further stated that subsequent to withdrawing her request for a hearing before the DDRB, Ms. Valdes was advised that the Police Chief was reneging on his offer and was going to terminate her. Attorney Guttman-Valdes stated since Ms. Valdes was eligible for retirement, she retired, and then sought to seek relief via the Civil Service Board based upon the breached agreement so they are requesting a hearing pursuant to Rule 16 or (Rule 14) to appeal the suspension.

Chairman Silverman asked Attorney Guttman-Valdes if she was trying to revoke Ms. Valdes' retirement. Attorney Guttman-Valdes responded if the City was found to have breached the agreement, (her expectation is that) Ms. Valdes would be reinstated with the 6-months take-home vehicle privilege revoked, and the 200 hours (of pay) restored. Chairman Silverman stated when this matter was initially brought before the Board, his recollection was that the Board recommended a representative from the FOP to be present (to answer any questions the Board might ask.) Attorney Guttman-Valdes

responded this was not an evidentiary hearing. Chairman Silverman stated notwithstanding that for her request, the Board recommended the presence of a FOP representative at today's meeting. He asked if someone was present from the FOP. Hearing no response, Chairman Silverman asked opposing counsel for her position on this matter.

ACA Richard stated when the Board considered Ms. Valdes' request on July 24, 2012, there were two things that counsel was asked to bring one of which was a settlement agreement. She went on to say (the document Attorney Guttman-Valdes provided) did not amount to any type of settlement agreement because there was no acceptance or communication from Police Chief Orosa agreeing to accept that Ms. Valdes serve a 200-hour suspension (in lieu of termination). ACA Richard further stated it was also agreed that to have a representative from the FOP present because Attorney Guttman-Valdes continued to say the FOP had a conversation with Police Chief Orosa agreeing to allow Ms. Valdes to serve a 200-hour suspension, which was not true. She stated she was waiting to hear from the FOP today because this is what counsel was asked to do.

Attorney Guttman-Valdes responded that she had an email from the FOP that instructed Ms. Valdes on what to do, although she did not have copies. Chairman Silverman asked counsel to read the document into the record. Attorney Guttman-Valdes stated what she was about to read into the record was a memo from Javier Ortiz (FOP) to Elba Valdes, dated May 21, 2012. She went on to say that this was a settlement agreement that was done verbally because it was to be consummated within two weeks. Attorney Guttman-Valdes read into the record a May 21, 2012 email from Javier Ortiz to Elba Valdes which stated, "Bring the red-line to Internal Affairs at 9:30. Tell your supervisor that you are bringing this to IA (Internal Affairs) then come to the IA Office and 02 me. I will hand-deliver the red-line. Please address it to Major Colina. The signature should be as follows: "After much thought I am respectfully changing my response in the reprimand to agree with the discipline. I agree with Major Colina's discipline of a 200-hour suspension as well as the 6-month suspension of my take-home car. Thank you"

Attorney Guttman-Valdes stated they are requesting a hearing because it was conveyed to her client that she would not be fired if she withdrew her request for a DDRB hearing. ACA Richard responded that this agreement was [supposedly conveyed] to Ms. Valdes by the Police Chief and although opposing counsel related that this agreement was conveyed to her client via the FOP, the point is the FOP does not speak for the Police Chief.

Chairman Silverman stated his concern was that Ms. Valdes retired and was now asking for a hearing and in effect claiming there was a misunderstanding about a settlement or actually that she was defrauded and she retired. He asked Special Counsel Everett if Ms. Valdes had any rights to come before the Board now that she had retired to file for a motion the same way it is done in court where someone claims there was a mutual mistake, fraud, or some other basis or was it too late for Ms. Valdes to file.

Cynthia A. Everett, Special Counsel to the Board, stated before she could provide a response she needed to know if Ms. Valdes filed her request for a hearing after she retired. Attorney Guttman-Valdes responded in the affirmative. Special Counsel Everett asked if Ms. Valdes was requesting a hearing pursuant to Rule 16. Attorney Guttman-Valdes responded in the affirmative and stated that her client was also requesting a hearing pursuant to Rule 14. Special Counsel Everett stated Ms. Valdes was no longer a City employee so she could not file pursuant to Rule 14 and nor could she file pursuant to Rule 16.2 because this rule also pertained to City employees.

Chairman Silverman stated that Ms. Valdes was no longer an employee because she retired and she retired because she was either defrauded, there was a mutual mistake, or she received bad advice from the FOP whatever the testimony would be, but the real question is whether the Board has authority to grant Ms. Valdes' request for a hearing. Special Counsel Everett responded in the negative. Chairman Silverman asked Special Counsel Everett if she was strong on her opinion (that the Board does not have the authority to grant Ms. Valdes a hearing.) Special Counsel Everett responded her position was strong based upon Ms. Valdes' request and the rules for which she requested a hearing pertain to employees only. She stated she would go further and say that according to what she heard, the Board would be engaging in speculation as to what might be the nature or reason for Ms. Valdes' request under Civil Service Rules 14 and 16.

Chairman Silverman asked Special Counsel Everett to assume that everything that Attorney Guttman-Valdes was accurate. He went on to say that, there still was the basic question of whether the Board has jurisdiction or authority to hear Ms. Valdes' case since she is no longer an employee. Attorney Guttman-Valdes responded that when an employee is terminated, they are no longer employees, but the Board still has jurisdiction to hear their appeal. She went on to say that she chose to travel under Rule 14 because if the Board found that it was a constructive termination based upon the department's action, then her client would be entitled to appeal the action. Special Counsel Everett stated that she would point out that the Rules specifically pertain to a termination or removal; however, in this case there is no rule that covers someone who voluntarily retired.

Chairman Silverman asked Special Counsel Everett what was her advice to the Board because he needed to know whether or not the Board had authority to grant Ms. Valdes' request for a hearing. Special Counsel Everett responded that the Board did not have authority based upon the request before the Board.

For clarification purposes, Member Harris asked if Ms. Valdes filed her request for a hearing after she retired. Attorney Guttman-Valdes responded in the affirmative.

Chairman Silverman stated that the memo Ms. Valdes submitted for which she accepted the penalty of a 200-hour suspension (and suspension of 6-month take-home vehicle), she was an employee at that time and after the Police Chief allegedly changed his mind about whatever deal was made, Ms. Valdes retired at that time. He went on to say the question is did Ms. Valdes lose any rights under the Civil Service Rules and does this Board have any authority to take any action once an employee has retired. Chairman Silverman further stated that according to Special Counsel Everett, the Board does not have authority to grant a hearing in this case because Ms. Valdes is no longer an employee because she retired.

Attorney Guttman-Valdes stated it is their position that if the Board were to look at this situation from the point of a constructive termination, then under Rule 14, the Board would have the ability to grant her client's request for a hearing. She went on to say that her client was eligible for retirement and rather than suffer termination and go without pay, she went ahead and took her pension so that she would have money to live.

Member Harris stated under Rule 14 it also talks about resignations so she wanted to know from the Board's attorney if a retirement could be considered a resignation under these circumstances since Attorney Guttman-Valdes wanted to travel under Rule 16.2 concerning a violation of Rule 14. Special Counsel Everett asked Member Harris which particular section of Rule 14 was she referring to. Member Harris responded that she just received clarification from the rules that it would not apply. Special Counsel Everett reiterated that Rule 16.2 pertains to grievances by employees and it was conceded that

Ms. Valdes filed her request for a hearing after she retired (so she was not an employee at the time she filed her request.)

Chairman Silverman asked Attorney Guttman-Valdes if there was anything else she wished to state regarding this matter. Attorney Guttman-Valdes responded in the negative. Chairman Silverman asked ACA Richard if she wished to say anything more on this matter. ACA Richard responded in the negative. Chairman Silverman stated that the Board was advised by its Attorney, that the Board has no authority or jurisdiction to grant Ms. Valdes' request for a hearing because she was no longer an employee.

Following discussion, the Board entered a motion to grant Ms. Valdes' request for a hearing; however, the motion died for lack of a second. The Board entered a motion to DENY Ms. Elba Valdes' request for a hearing. Under discussion, Member Harris stated that based upon what she heard from the Board's Special Counsel, the Board does not have the authority to grant Ms. Valdes' request for a hearing because she was retired and no longer considered an employee. She went on to say that her vote will be based on Special Counsel Everett's opinion that the Board does not have jurisdiction on this matter and what is clearly written in the Civil Service Rules under Rules 14 and 16.

Following discussion, the motion on the floor to DENY Ms. Elba Valdes' request for a hearing resulted as follows:

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

Aye: Silverman, Gomez and Harris

No: Moy

Absent: Lago

H. TODAY'S HEARINGS

H.1

Grievance Hearing on behalf of Ricardo Novas, Broadcast Engineer, pursuant to Rule 16.2, concerning a violation of Rule 12, Layoff, Resignation, and Reinstatement.

Chairman Silverman asked both attorneys if they were prepared to go forward today. Attorney Braverman and ACA Richard responded in the affirmative.

The Executive Secretary asked the Chairman if he was going to wait until Member Lago's arrival to start Mr. Novas' hearing. Chairman Silverman responded in the affirmative. He went on to say that he wanted to get everything prepared ahead of time so that when Member Lago did arrive, the Board could move forward. Chairman Silverman further stated that he was expecting Member Lago in approximately 5 minutes.

Following Member Lago's arrival, a second roll call took place, which resulted as follows:

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

The meeting recessed at 10:24 a.m. and reconvened at 10:59 a.m. to enter into the scheduled grievance hearing on behalf of Ricardo Novas, Broadcast Engineer, to

determine whether a settlement agreement was reached in this case.

Attorney Braverman stated that based upon a whole host of issues including a witness that was not available, so at this point he would ask that Mr. Novas' hearing be continued to the next meeting. He went on to say that he spoke with ACA Richard reference continuing the case and she expressed no objection. Attorney Braverman further stated that he also confirmed with the Executive Secretary about rescheduling Mr. Nova's case to the next meeting date.

Chairman Silverman asked opposing counsel for her position on continuing Mr. Novas' hearing to the next meeting date. ACA Richard responded that she had no objection if the request was being made due to the unavailability of one of the employee's witnesses.

Member Harris asked for the scheduling history of Ricardo Novas' hearing. The Executive Secretary responded that the Board granted one continuance on behalf of the employee and the other continuance was charged to the Board.

Following discussion, the Board entered a motion to approve the employee's request for a CONTINUANCE of his grievance hearing which resulted as follows:

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

Aye: Silverman, Moy, Gomez and Harris

No: Lago

ADJOURNMENT:

The meeting ADJOURNED at 11:01 a.m. A break was taken at 10:24 - 10:59 a.m.

SIGNATURE:

Gerald Silverman, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary