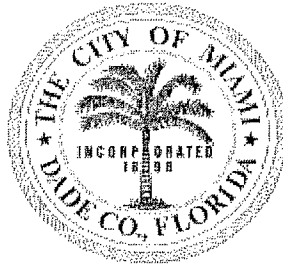


City of Miami

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

Tuesday, November 29, 2011

9:00 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 9:06 a.m. The roll call for the Board Members at the commencement of the meeting was as follows:

Present: Chief Examiner Kaplan, Member Dames, Member Silverman and Member Moy

Absent: Chairperson de la O

Chief Examiner Kaplan presided over the meeting due to the absence of the Chairman.

A. APPROVING THE MINUTES OF:

Regular Meeting of November 1, 2011.

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

Aye: Kaplan, Silverman, Dames and Moy

Absent: de la O

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

- D.1** Copy of a Settlement Agreement between the City of Miami Teresa Borkowski, Police Sergeant, relative to her Investigation hearing pursuant to Rule 16.1, Abuse of Power. (NOTIFICATION)
NOTIFIED : Case will be closed and removed from the Board's docket.
- D.2** Copy of a Settlement Agreement between the City of Miami and Dashon Yearby, Police Officer, relative to her 10-hour suspension, effective February 14, 2010. (NOTIFICATION)
NOTIFIED : Case will be closed and removed from the Board's docket.
- D.3** A copy of a letter from Keith A. Carswell, Director, Department of Solid Waste, notifying Sedrick Davis, Waste Collector Operator II, of his one-week suspension in lieu of termination, effective September 12, 2011. (NOTIFICATION)
NOTIFIED
- D.4** Copy of a letter from Beverly Pruitt, Director, Department of Human Resources, notifying Samaly Rodriguez, Personnel Services Representative, of her two-week suspension, effective November 7, 2011 and a copy of a request to appeal from Michael Braverman, Attorney, on behalf of Samaly Rodriguez. A hearing of appeal will be scheduled in

accordance with Civil Service Rules & Regulations. (NOTIFICATION)

RECEIVED AND FILED

- D.5 Copy of a letter from Chief Miguel Exposito, Director, Department of Police, notifying David Carpenter, Police Officer, of his 40-hour suspension, effective November 15, 2011. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

- E.1 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.

Member Dames asked if a settlement had been reached in this case. Hearing no response to Member Dames' question, Acting Chairman Kaplan asked the Executive Secretary if the Board needed to approve the settlement. The Executive Secretary responded in the negative. She went on to say that this item pertains to the Board's Continuance Policy and discussion regarding a possible settlement, and since no document has been received, whether Officer Javier Gonzalez' hearing should be rescheduled.

Acting Chairman Kaplan asked for the Department's position on this matter. Janeen Richard, Assistant City Attorney (ACA), responded that she sent the settlement agreement to Attorney Ronald Cohen's office approximately two weeks ago for his client, Javier Gonzalez, to sign; however, she has not received the signed copy back from Attorney Cohen.

Attorney Cohen was not present at the meeting. Following discussion, the Board entered a motion to DEFER this matter to the Board's next meeting to determine at that time if the matter has been settled. The motion 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

Absent: de la O

- E.2 Copy of an amended Grievance request on behalf of Peter Kendrick, Lease Manager, pursuant to Rule 16.1, Abuse of Power by his former director, alleging a violation of Civil Service Rules 14.2(h), (i), and (r), as directed by the Board. (NOTIFICATION)

NOTIFIED

F. REPORTS

- F.1 Pending Hearings as of November 29, 2011. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS**H. TODAY'S HEARINGS****H.1** Hearing of Appeal on behalf of Lillie Harris, concerning her demotion from Lieutenant to Sergeant, effective May 19, 2010. (DISCUSSION)

Prior to entering into the case of Lillie Harris, ACA Richard stated that this hearing was specially set and at the time everyone was expecting it to be heard before a full-member Board; however, it is her understanding that the Chairman is absent today. She went on to say that she thinks it is prejudicial to the department to go forward without having a complete five-member Board only because this case is a little bit more than the routine case that this Board is accustomed to hearing. ACA Richard further stated that this is a case involving a police lieutenant who was demoted to the rank of sergeant and based upon her understanding, the Board has not sat through this type of hearing. She stated that she thinks it would only be fair to the department and the employee if this case is heard before a full member Board and furthermore, she does not think the Board would be able to finish the hearing today considering she has 15 witnesses. ACA Richard went on to say that although she and opposing counsel tried to stipulate to some facts, they were not able to come to an agreement that would cut down the number of witnesses; therefore she is requesting this hearing be rescheduled.

Acting Chairman Kaplan asked for opposing counsel's position on the department's request. Attorney Rind responded that her client objects to the continuance request and provided argument in support of her position.

Following discussion, the Board entered a motion to proceed with the hearing today. The motion resulted as follows:

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

Aye: Kaplan, Dames and Moy

No: Silverman

Absent: de la O

The Board entered into the scheduled hearing of appeal on behalf Lillie Harris, the Appellant.

Janeen Richard, Assistant City Attorney, represented the Department.

Osnat K. Rind, Attorney at Law, represented the Appellant.

The Rule of Witnesses was invoked and all witnesses were sworn in individually. Acting Chairman Kaplan instructed the witnesses not to discuss the case among themselves.

Opening statements were presented by both attorneys. Following opening statements, Attorney Rind moved for a Motion in Limine. After hearing argument from both sides, Acting Chairman Kaplan denied Attorney Rind's motion. The Department proceeded with the calling of witnesses. Witnesses for the Department appeared in the following order:

1. Ethyl Jones, Commander, City of Miami, Department of Police. Questions were posed by Board Member Kaplan during the testimony of Ethyl Jones. Following Commander Jones' testimony, Attorney Rind renewed her Motion in Limine. Following

argument by both attorneys, Attorney Rind's motion was again denied by the Chairman.

2. Debbie Mills, Lieutenant, City of Miami, Department of Police. Questions were posed by Board Members Kaplan and Dames during the testimony of Lt. Mills.

3. Jonathan Yavneh, Lieutenant, City of Miami, Department of Police. Questions were posed by Board Member Moy during the testimony of Lt. Yavneh.

4. Julio Pino, Sergeant, City of Miami, Department of Police. Questions were posed by Board Member Dames during the testimony of Sgt. Pino.

5. Gloria Douthett, Police Officer, City of Miami, Department of Police. Questions were posed by Board Members Kaplan and Dames during the testimony of Officer Douthett.

6. Christine Gomez, Sergeant, City of Miami, Department of Police. Questions were posed by Board Members Kaplan, Dames, and Moy during the testimony of Sgt. Gomez.

7. Angela Chin, Sergeant, City of Miami, Department of Police. Questions were posed by Board Member Dames during the testimony of Sgt. Chin.

8. Mario de los Santos, Sergeant, City of Miami, Department of Police. Questions were posed by Board Member Kaplan during the testimony of Sgt. de los Santos.

9. George Law, Sergeant, City of Miami, Department of Police. Questions were posed by Board Members Kaplan and Dames during the testimony of Sgt. Law.

ACA Richard entered into evidence all of her exhibits and then rested the department's case.

Witnesses for the Appellant appeared in the following order:

1. John Carpenter, Sergeant, City of Miami, Department of Police. Questions were posed by Board Member Dames during the testimony of Sgt. Carpenter.

2. Reginald Kinchen, Sergeant, City of Miami, Department of Police. Questions were posed by Board Members Dames and Moy during the testimony of Sgt. Kinchen.

Prior to the Appellant resting her case, Attorney Rind announced that a settlement was reached in this case. She went on to say that the Department and the Appellant have agreed that the Appellant's disciplinary action will be rescinded, and that she will be restored to the rank of police lieutenant in exchange for waiving back pay.

SETTLED : 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.

H.2

Hearing of appeal on behalf of David Valentin, Police Officer, relative to his termination, effective November 9, 2010.

The Board considered together Items H.2 (Appeal Hearing of David Valentin) and H.3 (Appeal Hearing of Daniel Fernandez) together.

Ronald J. Cohen, Attorney at Law on behalf of Officers Valentin and Fernandez stated that he thought the meeting time was at 10:00 a.m. and apologized for being late. He went on to say that he still does not have the records that he requested for these cases;

however, he was told last Wednesday that some of the records are available. Attorney Cohen further stated that both cases involve dismissals but the matter involving Officer Valentin will be withdrawn pursuant to a settlement between the Fraternal Order of Police and the City of Miami. He asked the Chairman if his cases will be heard by the Board today. Acting Chairman Kaplan responded in the negative. He went on to say that the hearing of Lt. Harris began at 9:00 a.m. and will not finish until 5:00 p.m.

ACA Richard stated that she would like to respond to Attorney Cohen's mention of records because this is the first that she has heard records were not produced so she is wondering who Attorney Cohen has been calling asking for records. She went on to say that it is remarkable that Attorney Cohen would come the day of his clients' scheduled hearings to say that he does not have requested records.

Following discussion, the Board entered a motion to CONTINUE the appeal hearing of Officer David Valentin and charge the continuance to the Board which resulted as follows:

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

Aye: Kaplan, Silverman, Dames and Moy

Absent: de la O

H.3

Hearing of appeal on behalf of Daniel Fernandez, Police Officer, relative to his termination, effective November 6, 2010.

The Board entered a motion to CONTINUE the appeal hearing of Officer Daniel Fernandez and charge the continuance to the Board which resulted as follows:

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

Aye: Kaplan, Silverman, Dames and Moy

Absent: de la O

ADJOURNMENT:

Acting Chairman Kaplan called for a motion to ADJOURN which resulted as follows:

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

Aye: Kaplan, Silverman, Dames and Moy

Absent: de la O

The meeting ADJOURNED at 5:33 p.m. Breaks were taken at 9:18 - 9:33 a.m., 10:48 - 11:01 a.m., 12:16 - 1:00 p.m. (LUNCH), 1:59 - 2:09 p.m., and 3:36 - 3:34 p.m.

SIGNATURE:

Miguel M. de la O, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary

