

City of Miami

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

Tuesday, May 24, 2016

10:00 AM

Commission Chambers

Civil Service Board

*Lillie Harris, Chairperson
Vishwani Ramlal, Chief Examiner
Michael Dames, Board Member
Travis Lindsey, Board Member
Troy Sutton, Board Member*

PLEDGE OF ALLEGIANCE

The meeting was called to order at 10:00am, with the Pledge of Allegiance. At commencement of the meeting, attendance was as follows:

Present: Member Dames, Chairperson Harris, Member Sutton and Member Lindsey

Absent: Chief Examiner Ramlal

ADOPTION OF TODAY'S AGENDA

Prior to adoption of the Agenda, Chair Harris said that she wished to make a statement. She advised that she wanted to give a friendly, respectful and humble reminder that the Board Members run the Board, and make the decisions in all aspects of the Board. She went on to say that her job as Chair is to facilitate and oversee the process, and that each of the members has the same rights regarding making and seconding motions, and she trusts their decision-making. She further stated that before it, the City of Miami has a board with a lot of experience, expertise, education, diversity in thought process sitting on the Board, and they will do diligent and fair decision-making. She reminded the Board that the Board adopted use of Robert's Rules of Order in its procedures and if a motion is on the floor, then Board members only will participate in discussion, unless it requests responses by attorneys or others at the meeting, otherwise the discussion would be improper. Following this statement, the Board entered a motion to adopt the Agenda as printed, which resulted as follows:

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

Aye: Lindsey, Chairperson Harris, Sutton and Dames

A. APPROVING THE MINUTES OF:

Regular Meeting of May 10, 2016

Chair Harris asked that the following be added to the discussion portion on Item G.1: Reminder that during Board discussion, where there is a motion on the floor, it was improper at that point for Board Counsel to interject, unless a Board member invited her into the discussion. The Board entered a motion to accept the Minutes as amended, which resulted as follows:

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

Aye: Lindsey, Chairperson Harris, Sutton and Dames

B. PERSONNEL MATTERS**B.1**

Copy of a memorandum from Maurice Pons, Deputy Director, Department of Building, requesting a 2nd probationary extension for Andre Perez, Building Inspector, for 6 additional months beyond June 22, 2015.
(DISCUSSION)

Appearances were made by Rene Diaz, Chief of Unsafe Structures, Department of Building, and Mr. Perez. Chair Harris and Member Sutton asked questions regarding the plans of the employee and administration during the probation extension, which would bring the employee up to the standards being required of him. Mr. Perez and Mr.

Diaz responded. Following discussion, the Board considered a motion to grant the extension requested by the department, which resulted as follows:

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

Aye: Lindsey, Chairperson Harris, Sutton and Dames

- B.2** Copy of a memorandum from Amy Klose, Director, Department of Human Resources, confirming the request of Yasmine Garate, Emergency Dispatcher, to return to her former civil service classification of Emergency Dispatch Assistant. (NOTIFICATION)

NOTIFIED

C. MILITARY LEAVES OF ABSENCE

- C.1** Elijah Taylor requests re-employment as a Police Officer following his return from military leave. (DISCUSSION)

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

Aye: Lindsey, Chairperson Harris, Sutton and Dames

D. DISCIPLINARY MATTERS

E. GENERAL ITEMS

- E.1** Copy of a Request to Continue from Kevin Jones, Assistant City Attorney, concerning the Appeal hearing of Noel Chavez, Business Tax Receipts Supervisor, relative to his 20-day suspension, effective February 1, 2016. (DISCUSSION)

Hearing is scheduled for June 21, 2016.

Assistant City Attorney Jones advised that the request for a continuance was because the department director would be unable to attend the meeting when this matter would be heard. Osnat K. Rind, Attorney on behalf of Mr. Chavez responded that she had no objection to the request. The Board entered a motion to grant the continuance at the request of the department, which resulted as follows:

Motion by Member Sutton, seconded by Member Lindsey, that this matter be APPROVED. PASSED by the following vote.

Aye: Lindsey, Chairperson Harris, Sutton and Dames

- E.2** Copy of a "Motion for Finding of Not Guilty and Order of Reinstatement" filed by Osnat K. Rind, Attorney, Phillips, Richard, & Rind, P.A. on behalf of Sandy Dorsainvil, *former* Cultural Arts Center Manager (Unclassified), concerning Ms. Dorsainvil's termination, effective April 4, 2016. (DISCUSSION)

Osnat K. Rind, Attorney on behalf of Ms. Dorsainvil, appeared before the Board and asked that the Board consider the motion on its merits and asked for clarification in that regard first.

Member Dames stated that at the last meeting, the department agreed to provide the

reasons for Ms. Dorsainvil's termination. Chair Harris asked if she could interrupt and hear from Ms. Rind.

Ms. Rind gave an overview of the actions which took place at the Board's May 10th meeting, including that the City Charter requires that the reasons for disciplinary action must be provided to the affected employee within 5 days of that action's effective date. She went on to explain that the reasons for providing this notice include due process, and that failure to abide by the notice time frame requires that she be re-instated.

Chair Harris asked for the department's response. Assistant City Attorney Jones responded that the letter provided by Ms. Rind is not a motion, as it does not include any legal authority or case law that authorizes the Board to dismiss with a hearing and re-instate the employee. He went on to ask Special Counsel and the Executive Secretary if they were aware of any such authority, to which they replied in the negative. Assistant City Attorney Jones went on to remark that he and Ms. Rind communicated via email regarding this letter and on Thursday of last week, he advised her that he was still working on the letter, as there was a lot of documentation that needed to be reviewed, but that he would get it to her as soon as he could. He further explained that Ms. Rind's Motion is actually a letter requesting that the Board shirk its responsibilities to have a hearing as mandated by the City Charter, find Ms. Dorsainvil permanent, classified, not guilty and to reinstate her. He further stated that as Ms. Dorsainvil stands here today, she is an unclassified employee, and no cases have been produced by Attorney Rind which alters that status. He then proposed the end result of the Board's granting of the Motion, which in his opinion, would include further litigation.

Chair Harris reiterated that the Members of the Board would make their decision on their interpretation of the Rules, and though she appreciated his passionate presentation, and the experience and expertise of the Special Counsel and Executive Secretary, as she promised when opening the meeting, the Board had a lot of experience working with the City and will consider everything discussed at the meeting, when the hearing takes place. She went on to say that she was hoping that the department would have produced the revised letter within five days, as agreed. She further stated that she wanted to be sure that when conducting the business of the Board, that they avoid putting the employee or the City in a vulnerable situation; so since there is a tremendous amount of uncertainty regarding the outcome of voting in favor of Ms. Rind's Motion, regarding whether additional litigation would be needed, her suggestion would be for the Motion to be considered at the time of the Appeal hearing, which is already scheduled to take place, but could be moved up.

Attorney Charles Mays appeared on behalf of Ms. Dorsainvil, and stated that they believe that the City will produce the letter, and that they will go forward and address these issues at that time. Chair Harris asked if they were withdrawing the Motion, to which Attorney Mays responded in the negative, and added that they agree to hold the matter in abeyance until the Appeal hearing takes place. ACA Jones advised that he had just emailed the letter to Ms. Rind and the Executive Secretary.

Following discussion, the Board considered a motion to reserve ruling on the Motion until the Appeal hearing on behalf of Ms. Dorsainvil, which resulted as follows:

Motion by Member Sutton, seconded by Member Lindsey, that this matter be APPROVED. PASSED by the following vote.

Aye: Lindsey, Chairperson Harris, Sutton and Dames

F. REPORTS

F.1 Pending Hearings as of May 24, 2016. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS

G.1 Request for Investigation hearing pursuant to Civil Service Rule 16.1, from Osnat K. Rind, Attorney on behalf of Jose A. Arias and Arnulfo Ramos, alleging a violation of Civil Service Rule 5.4 - Disqualification, as it relates to their ineligibility determination for the classification of Grounds & Turf Manager. (DISCUSSION)

Ms. Rind appeared before the Board and advised that the referenced employees applied for Grounds & Turf Manager, and were effectively disqualified from that position under false allegations of falsification. She went on to say that the assistant director approached them and accused them of submitting false information on their applications, and they are alleging that this is an abuse of power, violation of Civil Service Rule 5.4 and several sections of Rule 14.

Chair Harris asked for the department's response. Assistant City Attorney Kevin Jones replied that he absolutely disagreed with Attorney Rind's recitation of the facts, and does not believe that the employees are entitled to a hearing. He went on to say that the employees (were not disqualified and) are on the Register, so everything that was said has no bearing on the relief that she is asking for. He reiterated that factually, there is no basis for this hearing; however, if the Board wishes to grant a hearing, they are within their purview to do so.

Chair Harris reminded the Board that before them was a request for hearing, and whether or not a Rule was violated would be determined at the actual hearing, should the Board agree that one should be granted. Member Dames made a motion to GRANT the hearing, which was seconded by Member Sutton. Under discussion, the Executive Secretary asked for clarification as to the Board's final motion regarding granting of a Rule 16.1 or 16.2 hearing, as well as the Rules alleged to have been violated.

Attorney Rind replied that her request was for both Rule 16.1 and 16.2 hearings, alleging violation of Section 36 of the City Charter, as well as Rules 5.4, 14.2(d), 14.2(h), 14.2(i), 14.2(k) and 14.2(r).

Following discussion, the motion on the floor resulted as follows:

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

Aye: Lindsey, Chairperson Harris, Sutton and Dames

H. TODAY'S HEARINGS

H.1 Hearing of appeal on behalf of Nathalie Lanau, Police Officer concerning her 80-hour suspension, effective June 4, 2015.

Eugene Gibbons, Attorney on behalf of Ms. Lanau, appeared before the Board and asked for a brief recess to confer with ACA Jones regarding a possible settlement. Following the break, Attorney Gibbons requested a joint continuance on behalf of both attorneys. The Board considered a motion to grant a continuance, which resulted as

follows.

Motion by Member Sutton, seconded by Member Lindsey, that this matter be CONTINUED. PASSED by the following vote.

Aye: Lindsey, Chairperson Harris, Sutton and Dames

ADJOURNMENT

A break was taken between 11:00am - 11:04am. The meeting adjourned at 11:05am, on the following motion:

Motion by Member Sutton, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Chairperson Harris and Sutton

No: Dames

SIGNATURE:

Lillie Harris, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary