

City of Miami

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

Tuesday, December 1, 2015

9:00 AM

Commission Chambers

Civil Service Board

*Javier Baños, Chairperson
Troy Sutton, Chief Examiner
Lillie Harris, Board Member
Vishwani Ramlal, Board Member
William W. Riley, Board Member*

PLEDGE OF ALLEGIANCE

The meeting was called to order at 9:02 am. At the commencement of the meeting, attendance was as follows:

Present: Chairperson Baños, Chief Examiner Sutton, Member Harris, Member Ramlal and Member Riley

ADOPTION OF TODAY'S AGENDA

The Board entered a motion to adopt today's agenda as printed, which resulted as follows:

Motion by Member Riley, seconded by Member Ramlal, to APPROVE. PASSED by the following vote.

Aye: Baños, Sutton, Harris, Ramlal and Riley

A. APPROVING THE MINUTES OF:

Regular Meeting of November 17, 2015.

Motion by Member Ramlal, seconded by Member Harris, to APPROVE. PASSED by the following vote.

Aye: Baños, Sutton, Harris, Ramlal and Riley

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

- D.1** Copy of a letter from Chief Rodolfo Llanes, Director, Department of Police, notifying James Fraser, Police Officer, of his 10-hour forfeiture, effective November 20, 2015 (reprimand #15-135). (NOTIFICATION)

NOTIFIED

- D.2** Copy of a letter from Chief Rodolfo Llanes, Director, Department of Police, notifying James Fraser, Police Officer, of his 10-hour forfeiture, effective November 20, 2015 (reprimand #15-136). (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS**F. REPORTS**

- F.1** Pending Hearings as of December 1, 2015. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS

H. TODAY'S HEARINGS**H.1**

Grievance Hearing on behalf of Robert Laurenceau et al, Police Sergeant, concerning the 2015 Lieutenant's exam.

The Board entered into the scheduled Grievance hearing of Robert Laurenceau, Nestor Garcia, Edwin Gomez, Robert Marana, Emmanuel Prospere and Reinaldo Tejera, police sergeants, City of Miami, Department of Police.

Luis Fuste and Michael Braverman represented the Grievant. Mr. Fuste was present.

Carlos Gamez and Kevin Jones of the City Attorney's Office represented the Department of Human Resources.

Opening statements were made by Attorney Fuste. Attorney Gamez reserved opening statements.

Witnesses testified on behalf of the Grievants in the following order:

1. Robert Laurenceau, Police Sergeant, Department of Police. Questions were posed to witness Laurenceau by Members Harris, Sutton and Baños.

During the cross-examination of witness Laurenceau, Attorney Fuste objected to a question asked of the witness and reminded the Board that, as stated in his opening, the petitioners wished to revise their Grievance. He went on to explain that the question posed to the witness was related to the allegation of violation of Civil Service Rule 6.5, and asked that the Board consider an alleged violation of Civil Service Rule 6.3 only. Chair Baños responded that the Grievant introduced the discussion regarding "scoring methodology", which directly relates to Civil Service Rule 6.5, therefore, the questioning in that manner could continue.

Following this discussion, witnesses continued in the following order:

2. Emmanuel Prosper, Police Sergeant, Department of Police. Questions were posed to witness Laurenceau by Members Harris, Riley and Baños.

3. Edwin Gomez, Police Sergeant, Department of Police. Questions were posed to witness Gomez by Members Harris and Sutton.

4. Albert Vila, Police Lieutenant, Department of Police. Questions were posed to witness Vila by Member Sutton.

5. Jose M. Rodriguez, Police Lieutenant, Department of Police. Questions were posed to witness Rodriguez by Members Sutton and Riley.

No opening statements were made by, and no witnesses testified on behalf of the Department of Human Resources.

Attorney Fuste made closing arguments. Assistant City Attorney Gamez made closing arguments. Attorney Fuste made rebuttal arguments. Following closing arguments, the Board deliberated on the testimony and evidence, and considered the merits of the complaints.

Chair Baños read Civil Service Rule 16.2 into the record and advised how he would like

to proceed with entertaining motions and having discussion.

The Board entered a motion to find that there WAS NOT a violation of Civil Service Rule 17.1. Under discussion, Member Harris explained that it was stipulated during the testimony that there was no violation of that Rule, and there were no facts to support an alleged violation. Chair Baños concurred that there was no evidence submitted to support this violation. Following discussion, the motion on the floor resulted as follows:

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

Aye: Baños, Sutton, Harris, Ramlal and Riley

Chair Baños read Rule 6.5 into the record, then opened the floor for a motion and discussion. The Board considered a motion to find that there WAS a violation of Civil Service Rule 6.5. Under discussion, Member Sutton advised that he understood that the classification of Police Lieutenant was still under Federal Order, but that he did not understand why the department was not more transparent when it comes to the testing/selection process for competitive positions. He went on to give examples from today's hearing as well as the initial request for hearing (April 14, 2015) to support his statement. He further explained that he thought that the department ignored the survey results of those subject matter experts who were asked to contribute to the job analysis, which caused him to question the validity of the test.

Member Ramlal expressed that she seconded the motion because throughout the hearing, two things screamed out at her - the test dimensions were not weighted properly or fairly, and the study list materials were not addressed in the exam. She went on to say that in her opinion, weighing meetings (particular oral board exercises) more than 50% of the exam score makes it seem as if the position in question is administrative in nature, rather than for a field lieutenant.

Chair Baños re-read the Rule and asked the members if they could say that it was indeed violated, given the evidence presented today. He went on to advise that in his opinion, there was no expert testimony provided by the complainants to prove that the methods of rating used were "unsound", as required by the Rule.

Member Harris stated that she has her opinions about the testing process in general; however, the role of the Board is to base decisions on facts and evidence, and in her opinion, the Rule allows the human resources department to use whatever measurement technique it so desires. She further stated that the definition of "sound" is ambiguous at best, and that no factual, tangible evidence was brought forth to prove the complaint. She went on to say that she can empathize with the complainants regarding how much candidates sacrifice to participate in the examination process, as she has taken the civil service examinations for every police classification. Member Harris advised that she feels that a 100% Oral examination is 100% subjective, because as human beings, we all have our shortcomings and faults; however, based on the evidence before the Board today, she concurs with the Chair on this matter, and that nowhere in the Rule does it state that the weights of the exam components must be provided to the candidate prior to the exam administration. Member Harris advised both sides that there may be some merit to reviewing the policies and in the future, improving communication about the selection process to interested or prospective applicants.

Member Riley advised that he would probably surprise the members, because he does think that the Grievants proved their burden on this item. He went on to say that he agreed with Member Sutton, that it is not a "sound procedure" (as stated in Rule 6.5) to apply weights to components after the administration of the exam.

Chair Baños asked if there was evidence submitted to support Member Riley's opinion, as he did not recall hearing or seeing anything regarding the methodology. Member Sutton showed Chair Baños minutes from a previous Board meeting, and reminded Chair Baños that witnesses testified and the department agreed that the weights were developed and applied after administration.

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

**Motion by Chief Examiner Sutton, seconded by Member Ramlal, to APPROVE.
PASSED by the following vote.**

Aye: Sutton, Ramlal and Riley

No: Baños and Harris

Chair Baños read Rule 6.3 into the record and asked if there was a motion. The Board entered a motion to find that there WAS a violation of Civil Service Rule 6.3. Under discussion, Member Harris stated that it is not easy serving on the Board, and she makes decisions at times that people do not agree with, but she wants to share why she is voting the way that she is. She further stated that the Rules may need to be updated, but what is before the Board today, is what must be considered; and from the testimony given, the witnesses advised that the content was relevant and important to the position of lieutenant and [the exam exercises] directly related to the duties and responsibilities to a field lieutenant in particular.

Member Sutton stated that the Board has an obligation to the citizens improve the efficiency, effectiveness and quality of the way we govern in the City through the Rules. He went on to say that ignoring the survey results of lieutenants with over 20 years of service, or giving candidates a list of material to study for three or six months, and not assessing it, is not the way to do that.

Chair Baños reiterated a portion of the Rule and said that he wants to be sure that the Board is evaluating whether it was followed. Member Sutton replied that in his opinion, it was not. Member Ramlal concurred with Member Sutton, and relayed testimony from two of the witnesses to support her statement.

Chair Baños reminded the Board that neither of the witnesses recalled by Member Ramlal participated in the examination, and therefore they were speaking on what was essentially second-hand knowledge. Member Ramlal responded that the two witnesses testified that based on what they submitted and how the components were weighted, that it was not a fair exam. Chair Baños advised that the Board had already made a decision on the matter of exam weights, and that this discussion should concern the content of the exam.

Member Harris asked where the proof was that the survey results of the incumbents was ignored, as there were only two who testified and there were 24 others who were surveyed.

Member Riley added that he has his personal opinions and he may share the views of Members Sutton and Ramlal, however when he reads the Rule, he does not believe there was a violation of this section.

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

**Motion by Chief Examiner Sutton, seconded by Member Ramlal, to APPROVE.
FAILED by the following vote.**

Aye: Sutton and Ramlal

No: Baños, Harris and Riley

The previous motion having failed, the Board entered a motion to find that there WAS NO violation of Rule 6.3, which resulted as follows:

Motion by Member Riley, seconded by Member Harris, to APPROVE. PASSED by the following vote.

Aye: Baños, Harris and Riley

No: Sutton and Ramlal

Having found violation of Rule 6.5, in accordance with Rule 16.2, the Board entered into discussion regarding what, if any recommendations to make to the City Manager.

Attorney Fuste stated that their remedy would be to maintain the eligible register until such time as all who passed are promoted. Assistant City Attorney Gamez responded that the Greivant's remedy would violate other Civil Service Rules, in that the Register would then last for more than 2 years.

Chair Baños asked if any member had recommendations, or should the Board forward its findings to the manager and leave it to him to make any recommendations.

Member Harris stated that in accordance with Rule 16.2, the Board can make whatever recommendations it so chooses, and the manager can consider them. She went on to say that for the betterment and improvement of the City, she would recommend more transparency, and that for future examination processes, that the department include a written portion as it has been done in the past; give the weight of each component prior to administration, or weigh each portion equally; and include questions or exercises that assess knowledge of the information provided in the book list, that is forwarded to the candidates. She went on to advise the grievants to make recommendations regarding revision of the Rules.

Member Sutton advised the grievants to consider adding examination and selection processes to their collective bargaining agreement.

Member Riley stated that he trusts that the city manager will address this matter appropriately, and agreed that the Board should not make any recommendations.

Following discussion, the Board entered a motion to not make any recommendations, which resulted as follows:

Motion by Member Riley, seconded by Chairperson Baños, to APPROVE. PASSED by the following vote.

Aye: Baños, Sutton and Riley

No: Harris and Ramlal

ADJOURNMENT

Breaks were taken between 10:14am - 10:23am; 12:00pm - 12:30pm (Lunch); and 1:56pm - 2:00pm. There being no further business before the Board, the meeting adjourned at 2:41 pm.

SIGNATURE:

Javier Banos, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary