

City of Miami

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

Tuesday, January 20, 2015

10:00 AM

Commission Chambers

Civil Service Board

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

PLEDGE OF ALLEGIANCE

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

Present: Member Baños, Member Ramlal and Chief Examiner Sutton

Absent: Member Riley

ELECTION OF CHAIR

The Executive Secretary stated that pursuant to Civil Service Rule 2.1, the Board must elect one of its members as Chair. She then opened the floor for nominations for Chair of the Board. Member Ramlal responded that her understanding was that the Board would wait to have a full Board prior to electing a Chair. The Executive Secretary advised that the Board did decide to wait until a fifth member had been named, but that a later request was made to put the item on the Board's agenda for today. Member Banos stated that he requested that the item be placed on the Board's agenda, and added that he would like to Chair the Board. He further stated that this issue has been before the Commission for two and a half months and the Board has postponed the election. Member Banos stated that the City Commission has had at least three separate instances in which they could have nominated another member and they chose not to do so. He advised that if the members of the Board feel that he is not doing a good job, he will let someone take over as Chair. Member Ramlal stated that it is not that Member Banos is not doing a good job but the Board agreed to wait for a full Board before discussing the issue of Chair. Member Sutton stated that he is good either way. He went on to state that [Chair] Harris ran for a position in her home town in which she knew she would have to give up the Board position. Member Banos nominated himself as Chair of the Board. Member Ramlal asked if the Board was going to get a fifth member or remain a four member Board. The Executive Secretary responded that the appointment of a fifth member is the Commission's decision to make. She went on to say that the item appointing the Board's fifth member has been on the Commission meeting agenda for the past three months, however, the Commission has declined to make an appointment. Special Counsel Clyne advised that the Board has no rules as to nominations but asked that someone else nominate Member Banos for Chair. Following discussion, Member Sutton nominated Member Banos for Chair, and Member Banos accepted the nomination. There were no other nominations for Chair. The motion resulted as follows:

Motion by Chief Examiner Sutton, seconded by Member Baños, to APPROVE.

PASSED by the following vote.

Aye: Ramlal, Sutton and Baños

The Board voted and elected Member Banos to serve as Chair of the Board. The Executive Secretary turned the meeting over to Chair Banos and the Board proceeded with the agenda.

A. APPROVING THE MINUTES OF:

Regular Meeting of January 6, 2015.

The Board entered a motion to approve the minutes of the January 6, 2015 meeting which resulted as follows:

Motion by Chief Examiner Sutton, seconded by Member Ramlal, to APPROVE.

PASSED by the following vote.

Aye: Ramlal, Sutton and Baños

B. PERSONNEL MATTERS

- B.1** Copy of a memorandum from Chief Maurice Kemp, Director, Department of Fire Rescue, requesting an extension of probationary period of Adonis Gonzalez Jr., Fire Fighter, for three (3) additional months beyond February 24, 2015. (DISCUSSION)

Chair Banos asked if anyone was present regarding this matter. Captain Niorge Aragon, Executive Assistant to the Fire Chief, appeared before the Board and advised that the probation extension is requested to allow for a full evaluation due to the firefighter being in a light duty capacity for three months. Following discussion the Board voted as follows:

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

Aye: Ramlal, Sutton and Baños

- B.2** A copy of a memorandum from Amy Klose, Director, Department of Human Resources, confirming the request of Caridad B. Linares, Fiscal Assistant, to return to her former classification of Cashier II, effective January 21, 2015. (NOTIFICATION)
ITEM ADDITION
NOTIFIED

C. MILITARY LEAVES OF ABSENCE

- C.1** John Perez, Police Officer, requests retroactive duty military leave without pay from November 13, 2014. Copy of amended Orders submitted. (DISCUSSION)

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

Aye: Ramlal, Sutton and Baños

D. DISCIPLINARY MATTERS

- D.1** Copy of a letter from Daniel Alfonso, City Manager, notifying Janet Williams-Brewster, Grant Writer, of her termination, effective January 9, 2015. (NOTIFICATION)
NOTIFIED

E. GENERAL ITEMS

- E.1** Copy of a Findings and Recommendations concerning the Investigation Hearing on behalf of Carlos Mendez, Police Sergeant, concerning his eligibility to take the Police Lieutenant's Promotional Exam. (DISCUSSION)
Motion by Member Ramlal, seconded by Chief Examiner Sutton, that this matter be APPROVED. PASSED by the following vote.

Aye: Ramlal, Sutton and Baños

- E.2** Copy of Findings of Fact concerning the Hearing of Appeal on behalf of Lewis Mahoney, Park Manager II, relative to his 5-Day suspension, effective March 4, 2014. (DISCUSSION)
Deferred from the meeting of January 6, 2015.

Chair Banos asked if anyone was present on this issue. Osnat K. Rind of Phillips, Richard and Rind, P.A., appeared before the Board on behalf of Lewis Mahoney, and advised that she is prepared to go through the Findings and discuss the requested changes, but that there was a member who heard the case who is now missing, and that it is her preference to have the missing Board member be present; however, she will do whatever the Board decides. Chair Banos asked the Executive Secretary how long this item had been before the Board. The Executive Secretary responded that this item had been on the Board's agenda since October and more importantly, until the packet is sent to the City Manager this matter can not be closed. Chair Banos stated that there has been sufficient opportunity for everyone to review the Findings and determine any issues.

Chair Banos stated that if Member Harris is re-appointed and she decides to change her vote on this issue the Board will discuss any ramifications at that time. Special Counsel Clyne informed Chair Banos, who was absent the last meeting and reminded the other Board members, that at the last meeting the Board made a policy decision not to reconsider votes once the members have left the dais, as to avoid the appearance of impropriety. Special Counsel Clyne went on to state that at this point there will be no reconsideration of votes on this issue. Chair Banos stated that he supports the Board's decision. Attorney Rind stated she would like to have the benefit of the missing member present to consider the changes presented as well since she heard the case. Chair Banos stated the Board understood what former member Harris stated and that the Board has moved on from that issue. Special Counsel Clyne advised that both parties have made recommended changes to be reviewed by the Board. Chair Banos suggested a recess for ten minutes to discuss the changes request for the Findings.

Following the recess, the Board reconvened and proceeded to discuss the revisions in the Findings. Following discussion, the Board entered a motion to ACCEPT the amended Findings and Recommendations, which resulted as follows:

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

Aye: Ramlal, Sutton and Baños

- E.3** Copy of an Agreement between the City of Miami and Raphael Gonzalez, Superintendent of Parks, relative to his termination, effective March 21, 2014. (NOTIFICATION)

NOTIFIED Settled: Case will be closed and removed from the Board's docket.

F. REPORTS

- F.1** Pending Hearings as of January 20, 2015. (NOTIFICATION)
PRESENTED

G. REQUESTS FOR HEARINGS**H. TODAY'S HEARINGS****H.1** Hearing of Appeal on behalf of Quateca Kirksey, Police Officer, relative to her 20-hour suspension, effective April 2, 2014.

The Board entered into the Appeal hearing on behalf of Quateca Kirksey. Eugene Gibbons, Attorney, Bushel Gibbons, P.A., represented the employee. Stephanie Panoff, Assistant City Attorney, represented the Department.

The Rule of Witnesses was invoked and witnesses were instructed to leave the chambers and not to discuss their testimony. Both parties waived their opening statements.

The following witnesses testified on behalf of the Department:

- (1) Precious Florence, Deputy, Broward Sheriff's Office*
- (2) Max Gabriel, Police Sergeant, City of Miami Department of Police*

The department rested.

The following witnesses testified on behalf of the Appellant:

- (1) Valencia Charles, Police Officer, City of Miami Department of Police*
- (2) Rita L. Freckelton, Police Officer, City of Miami Department of Police*
- (3) Appellant testified on her own behalf. Questions were posed to Appellant by Chair Banos.*

Attorney Gibbons asked to play a recording of a statement of a firefighter who was on the scene. Assistant City Attorney Panoff objected to the statement due to lack of proper foundation. Chair Banos overruled the objection and responded that Witness Gabriel testified that he took the statement of the firefighter. Attorney Gibbons played the Internal Affairs statement of Firefighter Jose Mendez, recorded April 18, 2013.

The Appellant rested. Closing statements were provided by both parties, and the Board proceeded to discussion. Following discussion, the Board proceeded to vote on charges. The Board noted that several charges listed on the charging document were actually stems or titles of chapters or sections, and were therefore discarded.

The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.1.2 - Members to Know Rules, which resulted as follows:

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

Aye: Ramlal, Sutton and Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.17.9 - Neglect or Inattention to Duty, which resulted as follows:

Motion by Member Ramlal, seconded by Member Baños, that this matter be APPROVED. PASSED by the following vote.

Aye: Ramlal and Sutton

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental

Order 1, Chapter 11.6.17.10 - General Incompetence, which resulted as follows:

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

Aye: Ramlal and Sutton

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.18.2 - Duty Responsibilities, which resulted as follows:

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

Aye: Ramlal and Sutton

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.53.1 - Members to be Truthful, which resulted as follows:

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

Aye: Ramlal, Sutton and Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 11, Chapter 16.4.24 - Arresting Officers, which resulted as follows:

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

Aye: Ramlal, Sutton and Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 11, Chapter 3.31 - Initiating Officer Responsibilities, which resulted as follows:

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

Aye: Ramlal and Sutton

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Civil Service Rules and Regulations 14.2(e) 2 - Breach of Proper Discipline, which resulted as follows:

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

Aye: Ramlal, Sutton and Baños

Chair Banos entered a motion to find the Appellant GUILTY of violating Civil Service Rules and Regulations 14.2(e) 3 - Loss or Injury to the City. The motion died for lack of a second.

The Board entered a motion to find the Appellant NOT GUILTY of violating Civil Service Rules and Regulations 14.2(e) 3 - Loss or Injury to the City, which resulted as follows:

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

Aye: Ramlal and Sutton

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Civil Service Rules and Regulations 14.2(k) - Incompetent, Negligent or Inefficient, which resulted as follows:

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

Aye: Ramlal and Sutton

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Civil Service Rules and Regulations 14.2(l) - Careless/Neglect, which resulted as follows:

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

Aye: Ramlal, Sutton and Baños

H.2

Hearing of Appeal on behalf of Francisco Gonzalez, Zoning Plans Reviewer, concerning his 1-day suspension, effective December 2, 2013.

As the Board decided that the hearing could not conclude today, Chair Banos asked if the parties were amenable to a continuance. Attorney Osnat K. Rind appeared before the Board on behalf of the Appellant, and responded that she had no objections to a continuance in this matter. Assistant City Attorney Stephanie Panoff responded that her witnesses are available however, she had no objections to a continuance. The Board entered a motion to CONTINUE the hearing and to charge the continuance to the Board, which resulted as follows:

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

Aye: Ramlal, Sutton and Baños

ADJOURNED

The meeting adjourned at 3:23 p.m.

SIGNATURE:

Javier Banos, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary