

City of Miami

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



Meeting Minutes

Tuesday, February 19, 2013

10:00 AM

Commission Chambers

Civil Service Board

*Gerald Silverman, Chairperson
Sean Moy, Chief Examiner
Lillie Harris, Board Member
Christine Gomez, Board Member
Javier Baños, Board Member*

PLEDGE OF ALLEGIANCE

The meeting was called to order at 10:09 a.m. The roll call at the commencement of the meeting was as follows:

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

A. APPROVING THE MINUTES OF:

Regular Meeting of February 5, 2013.

**Motion by Member Baños, seconded by Chief Examiner Moy, to APPROVE.
PASSED by the following vote.**

Aye: Silverman, Moy, Baños, Gomez and Harris

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

- C.1** Angel Fernandez, Police Officer, requests Active Duty Military leave without pay from February 22, 2013 through February 22, 2014. Copy of Orders submitted. (DISCUSSION)

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

Aye: Silverman, Moy, Baños, Gomez and Harris

- C.2** Vincent F. Miller, Police Officer, requests Active Duty Military leave without pay from March 18, 2013 through October 31, 2013. Copy of Orders submitted. (DISCUSSION)

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

Aye: Silverman, Moy, Baños, Gomez and Harris

D. DISCIPLINARY MATTERS

- D.1** Copy of a memorandum from the City Manager relative to the Grievance Hearing on behalf of Ricardo Novas, Broadcast Engineer, pursuant to Rule 16.2, concerning a violation of Rule 12, Layoff, Resignation, and Reinstatement, rejecting the recommendation of the Board to reinstate Mr. Novas to the position of Broadcast Engineer. (NOTIFICATION)

NOTIFIED

- D.2** Copy of a Memorandum from the City Manager relative to the Grievance Hearing on behalf of Lewis Mahoney, Park Manager II, pursuant to Rule 16.1, Abuse of Power by his Supervisor, Donald Lutton, Superintendent, Parks and Recreation Department and 16.2, Complaint by Employee, accepting the recommendation of the Board that the Workplace Violence

Policy (APM 1-99) be thoroughly followed. (NOTIFICATION)

NOTIFIED

- D.3 Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Viona Browne-Williams, Police Officer, of her 10-hr suspension, effective February 7, 2013 and a copy of a request to appeal from Officer Browne-Williams. A hearing will be scheduled in accordance with Civil Service Rules and Regulations. (NOTIFICATION)

RECEIVED AND FILED

- D.4 Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Reynaldo Goyos, Police Officer, of his termination, effective January 31, 2013. (NOTIFICATION)

Member Baños asked that the record reflect his Abstention from any Civil Service Board hearing that Officer Goyos might request.

NOTIFIED

- D.5 Copy of letter from Chief Manuel Orosa, Director, Department of Police, notifying Jean Marie Jean-Philippe, Police Officer, of his 200-hour suspension, effective February 16, 2013. (NOTIFICATION)

NOTIFIED

- D.6 Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Juan Herrera, Police Officer, of his 120-hour suspension, effective February 9, 2013. (NOTIFICATION)

NOTIFIED

- D.7 Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Terrel Cheever, Communications Assistant, of his termination, effective October 31, 2012 and a copy of a request to appeal. A hearing of appeal is scheduled for March 5, 2013. (NOTIFICATION)

RECEIVED AND FILED

E. GENERAL ITEMS

- E.1 Grievance Hearing on behalf of Carlos Jimenez, Structural Engineer/Plans Examiner, pursuant to Rule 16.2, alleging a violation of Rule 12.1, as it concerns his layoff effective September 23, 2011. (DISCUSSION)
Rescheduled pursuant to continuance policy; pending settlement since January 8, 2013.

The Chairman noted that this settlement has been pending since January 8, 2013, and asked for the status of the agreement.

ACA Richard advised that the terms had been agreed to, and the settlement agreement was being developed. There was no further discussion.

DISCUSSED

- E.2** Hearing of Appeal on behalf of Carlos Jimenez, Structural Engineer/Plans Examiner, relative to his 5-day suspension, effective July 26, 2011. (DISCUSSION). Rescheduled pursuant to continuance policy; pending settlement since January 8, 2013.

The Chairman noted that this settlement has been pending since January 8, 2013, and asked for the status of the agreement.

ACA Richard advised that the terms had been agreed to, and the settlement agreement was being developed. There was no further discussion.

DISCUSSED

- E.3** Notice of Withdrawal as Counsel from Michael Braverman, Attorney, concerning the Hearing of Appeal on behalf of Marly Saldarriaga, former Public Service Aide, relative to her termination, effective July 10, 2012. (DISCUSSION)

Hearing of Appeal is scheduled for today.

Chairman Silverman stated that he did not see Attorney Braverman. Anthony Hatten, President, AFSCME Local 1907, appeared before the Board and asked if he could speak. Chairman Silverman responded in the affirmative.

Mr. Hatten stated that it was his understanding that Attorney Braverman had been delayed in coming to today's meeting, and he asked if the Board could table discussion of this matter until Attorney Braverman's arrival.

Following consideration of the other Agenda matters, Chairman Silverman advised that Mr. Braverman had not yet arrived to the meeting, and asked if anyone had questions regarding this Notice of Withdrawal. Hearing no objection, the Board entered a motion to ACCEPT Mr. Braverman's Notice, which resulted as follows:

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

Aye: Silverman, Moy, Baños, Gomez and Harris

F. REPORTS

- F.1** Pending Hearings as of February 19, 2013. (NOTIFICATION)

G. REQUESTS FOR HEARINGS

- G.1** Copy of a Request for Hearing from Eugene G. Gibbons, Attorney, on behalf of Jonathan Yavneh, Police Lieutenant, pursuant to Civil Service Rule 16.2, concerning a violation of 11.2 Assignment to Other Work. (DISCUSSION)

Eugene G. Gibbons, Attorney on behalf of Jonathan Yavneh appeared before the Board and introduced himself, giving an overview of his work history. He went on to say that he expects to represent other Fraternal Order of Police members before the Civil Service Board.

Chairman Silverman advised that the Board had a copy of Attorney Gibbons' request and asked if Attorney Gibbons had anything to add. Attorney Gibbons responded that Lieutenant Yavneh is requesting this hearing because he is working out of classification ; in that the work that Lieutenant Yavneh is performing as a Field Training Coordinator has historically been performed by a Police Captain.

Chairman Silverman asked for the department's opinion on the request. Assistant City Attorney Richard responded that she had no objection to the request for hearing.

Chairman Silverman asked if any Board Members had any questions. Member Harris asked for Mr. Gibbons to explain the basis for the hearing request. Attorney Gibbons responded that they believed that the Police Department had unfairly shifted the burden onto Lieutenant Yavneh, in violation of Rule 11.2. He went on to say that from at least 1996 through 2007, when Lieutenant Yavneh took over, the work was performed by a Police Captain, and therefore, he should be compensated as a Captain. He further stated that the Board has heard these types of cases before in relation to Police and they would therefore like for the Board to grant a hearing in this matter.

Member Harris asked if Attorney Gibbons would clarify under which Rule he was travelling. Attorney Gibbons responded that he was travelling under Rule 11.2. The Executive Secretary advised the Board that the request was made pursuant to Civil Service Rule 16.2, alleging a violation of Rule 11.2.

Following discussion, the Board entertained a motion to GRANT the request for hearing, which resulted as follows:

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

Aye: Silverman, Moy, Baños, Gomez and Harris

H. TODAY'S HEARINGS

- H.1** Hearing of Appeal on behalf of Marly Saldarriaga, former Public Service Aide, concerning her termination, effective July 10, 2012.
- The Executive Secretary alerted the Board to a letter from Attorney Braverman stating that he was withdrawing as counsel for Ms. Saldarriaga. She went on to say that Ms. Saldarriaga had been mailed a letter from the Office advising of today's hearing. Chairman Silverman asked if the Board was in favor of this matter being rescheduled soon, and advising the Appellant that if she did not appear that the Board would hear her case in her absence. Hearing no opposition, the Chairman directed the Executive Secretary to reschedule the hearing.*
- H.2** Hearing of Appeal on behalf of Pierre Chery, Police Officer, relative to his 40-hour suspension, effective September 14, 2012.
- Ronald J. Cohen, Attorney on behalf of Pierre Chery, appeared before the Board and advised that Officer Chery had mandatory training today, and would not be able to attend the hearing.*
- Chairman Silverman asked if this case was one of those cited for speeding. Attorney Cohen responded in the affirmative, and stated that the parties may be able to resolve the matter.*

Chairman Silverman asked ACA Richard if she had any objection to the request for a

continuance. ACA Richard responded in the negative. Chairman Silverman asked if the Board Members had any questions. Member Harris asked whether this was a "speeding case", to which the Chairman responded in the affirmative. Member Harris asked ACA Richard if the department was in agreement with the request for continuance, to which the Chairman responded in the affirmative.

Following discussion, the Board entered a motion to GRANT the continuance requested in this matter, which resulted as follows:

Motion by Member Baños, seconded by Member Gomez, that this matter be CONTINUED. PASSED by the following vote.

Aye: Silverman, Moy, Baños, Gomez and Harris

H.3

Hearing of Appeal on behalf of Robert Jules, Police Officer, concerning his 40-hour suspension, effective September 14, 2012.

Ronald J. Cohen, Attorney on behalf of Robert Jules, appeared before the Board and advised that this was another "speeding case" and that Officer Jules was in court today, and would not be able to attend the hearing.

Chairman Silverman asked ACA Richard if she had any objection to the request for a continuance. ACA Richard responded in the negative.

Following discussion, the Board entered a motion to GRANT the continuance requested in this matter, which resulted as follows:

Motion by Member Baños, seconded by Member Gomez, that this matter be CONTINUED. PASSED by the following vote.

Aye: Silverman, Moy, Baños, Gomez and Harris

NON-AGENDA ITEM: Discussion regarding Scheduling for March 19, 2013 Meeting

Following discussion regarding Attorney Cohen's hearings, he asked if the Board would consider starting the March 19, 2013 meeting at 9:00am. He went on to say that both he and the FOP President had to catch planes that afternoon, and he wanted to be sure that there was enough time to hear the matter concerning the 2010 Eligibility Register for Police Sergeant.

Chairman Silverman asked if any of the Members were opposed to starting the meeting early. Hearing no objection, the Chairman advised that the March 19, 2013 meeting would begin at 9:00am.

H.4

Hearing of Appeal on behalf of Juan Ortega, Police Officer, concerning his 20-hour forfeiture, effective August 16, 2012.

Eugene G. Gibbons, Attorney on behalf of Mr. Ortega, appeared before the Board and advised that he had just been given this case, so he was asking for the Board to grant a continuance so that he could properly represent his client.

Chairman Silverman asked ACA Richard if she had any objection to the request for a continuance. ACA Richard responded in the negative.

Following discussion, the Board entered a motion to GRANT the continuance requested in this matter, which resulted as follows:

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

Aye: Silverman, Moy, Baños, Gomez and Harris

H.5

Hearing of Appeal on behalf of Melissa Valdes, Police Sergeant, concerning her 10-hr forfeiture, effective August 24, 2012.

Eugene G. Gibbons, Attorney on behalf of Ms. Valdes, appeared before the Board and advised that he had just been given this case, and that today, Ms. Valdes is in court, so he was asking for the Board to grant a continuance so that he could properly represent his client.

Chairman Silverman asked ACA Richard if she had any objection to the request for a continuance. ACA Richard responded in the negative.

Following discussion, the Board entered a motion to GRANT the continuance requested in this matter, which resulted as follows:

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

Aye: Silverman, Moy, Baños, Gomez and Harris

NON-AGENDA ITEM: Scheduling of Cases

Member Harris stated that she had one item that she meant to bring up at the last meeting. She went on to say that on behalf of Member Moy with regards to the calendar and as a reminder to how cases are prioritized, she had a discussion with the Executive Secretary after the last meeting for clarification. She went on to say that she wanted to remind the Board of statements made at the beginning of their terms, regarding the importance of scheduling termination hearings. She went on to say that she wanted the Executive Secretary to make the Board aware of the discussion they had regarding termination cases being given priority. She went on to say that a lot of the termination cases involve civilians, and that police cases seem to clog the system.

Member Moy stated that he agreed with Member Harris, and went on to say that civilian cases should be given the same priority as police cases, and we need to give more priority to terminations.

Chairman Silverman asked if anyone else wished to say anything regarding this discussion. Member Harris stated that she appreciated the efforts of the staff and advised that she and the Executive Secretary went over the process in more detail. She went on to ask if the Executive Secretary could provide those details to the Board, so that they all knew the process used to ensure that those cases are being prioritized.

Special Counsel Everett asked if there was a particular case that Member Harris was asking about that had been missed or improperly scheduled. Member Harris responded in the negative, and added that she just wanted the Board to be aware of the conversation, and how we are being sure that the cases are being prioritized.

Anthony Hatten, President, AFSCME Local 1907 appeared before the Board and asked about the appeal hearing on behalf of Terrel Cheever. The Executive Secretary advised that Mr. Cheever's hearing was scheduled for the Board's next meeting on March 5, 2013.

ADJOURNMENT:

The meeting ADJOURNED at 10:32 a.m.

SIGNATURE:

Gerald Silverman, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary