

City of Miami

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

Tuesday, March 17, 2015

10:00 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 commenced at 10:36 a.m. Chair Banos acknowledged and welcomed Member Harris' return to the Board. At the commencement of the meeting attendance was as follows:

Present: Chairperson Baños, Member Harris and Member Riley

Absent: Chief Examiner Sutton and Member Ramlal

A. APPROVING THE MINUTES OF:

Regular Meeting of March 3, 2015.

Chair Banos asked the Executive Secretary if the minutes of the March 3, 2015 meeting should be carried over to the next regular meeting due to today's absence of the board members who attended the March 3, 2015 meeting. The Executive Secretary responded in the affirmative.

B. PERSONNEL MATTERS

- B.1** Copy of a memorandum from Amy Klose, Director, Department of Human Resources, confirming the request of Jorge L. Salt, Administrative Assistant I, to return to his former classification of Emergency Dispatcher, effective March 8, 2015. (NOTIFICATION)

NOTIFIED

- B.2** Copy of a memorandum from Maurice Kemp, Director, requesting to extend the probationary period of Robert Cernuda, Lieutenant, for two (2) additional months beyond April 18, 2015. (DISCUSSION)

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

Aye: Harris, Riley and Baños

- B.3** Copy of a memorandum from Chief Rodolfo Llanes, Director, Department of Police, requesting to extend the probationary period of Francisco Garcia, Police Officer, for three (3) additional months beyond June 9, 2015. Officer Garcia does not object to the probation extension request. (DISCUSSION)

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

Aye: Harris, Riley and Baños

- B.4** Copy of a memorandum from Chief Rodolfo Llanes, Director, Department of Police, requesting to extend the probationary period of Alexis Stevens, Police Officer, for three (3) additional months beyond August 24, 2015. Officer Stevens objects to the probation extension request. (DISCUSSION)
Officer Stevens advised the Board that she no longer objected to the extension.

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

Aye: Harris, Riley and Baños

- B.5** Copy of a memorandum from Chief Rodolfo Llanes, Director, Department of Police, requesting to extend the probationary period of Angelica Loaiza, Crime Scene Unit Investigator, for six (6) additional months beyond April 7, 2015. CSI Loaiza does not object to the probation extension request. (DISCUSSION)

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

Aye: Harris, Riley and Baños

C. MILITARY LEAVES OF ABSENCE

- C.1** Luis Pla, Police Officer, requests re-employment as a Police Officer following his return from Military Leave. Copy of his DD214 indicating Honorable Discharge submitted. (DISCUSSION)

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

Aye: Harris, Riley and Baños

D. DISCIPLINARY MATTERS

- D.1** Copy of a Judgment from the City Manager concerning the Hearing of Appeal on behalf of Jean Marie Jean-Philippe, Police Officer, relative to his 200-hour suspension, effective February 13, 2013. (NOTIFICATION)

NOTIFIED

- D.2** Copy of a letter from Chief Rodolfo Llanes, Director, Department of Police, notifying Shanovaa Thomas, Police Officer, of her 8-hour suspension, effective March 11, 2015. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

- E.1** Hearing of Appeal on behalf of Rhausser Charles, Police Officer, concerning his 40-hour suspension, effective November 7, 2013. (DISCUSSION)

Rescheduled pursuant to continuance policy; pending settlement since February 17, 2015.

ITEM ADDITION

Chair Banos asked for the status of the settlement agreement in this matter. Assistant City Attorney Stephanie Panoff appeared and responded that the settlement proposal has been forwarded to opposing counsel for consideration. Without objection, Chair

Banos instructed that the matter be placed on the Board's March 31, 2015 Agenda.

F. REPORTS

F.1 Pending Hearings as of March 17, 2015. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS

H. TODAY'S HEARINGS

H.1 Investigation hearing, pursuant to Civil Service Rule 16.1 on behalf of Edward "Ted" Baker, Landscape Architect, alleging an Abuse of Power by Kevin Kirwan, Director, Parks and Recreation Department.

The Board entered into the investigation hearing of Edward Baker, Complainant. The attorneys stated their appearances for the record. Attorney John R. Darin of Cristal Hanenian (Atty. Darin) represented the Complainant. Assistant City Attorney Stephanie Panoff (ACA Panoff) represented the Department. Chair Banos stated that the City and Complainant's counsel have agreed as to the introduction and objections to discovery.

Chair Banos invoked the Rule of Witnesses. Witnesses were instructed to leave the chambers and advised not to discuss their testimony.

Both sides presented opening statements. Witnesses appeared before the Board on behalf of the Complainant, were sworn in and provided testimony in the following order:

(1) Edward Baker, Landscape Architect. Questions were posed to witness Baker by Members Harris and Riley.

(2) Kevin Kerwin, Director, Department of Parks & Recreation. Questions were posed to witness Kerwin by Chair Banos and Member Harris.

(3) Quatisha Oguntoyinbo-Rashad, Chief of Environmental Resources, Planning Department

(4) Barbara Wade, Private Citizen

(5) Valerie Harris, Private Citizen

(6) Karen Cartwright, Private Citizen

(7) Dinizulu Gene Tinnie, Private Citizen

The following witness appeared before the Board on behalf of the Department, was sworn in and provided testimony:

(1) Lara DeSouza, Deputy Director, Department of Parks and Recreation. Questions were posed to witness De Souza by Member Harris.

Following testimony of all witnesses both sides presented closing statements.

The Board began deliberation of the investigation hearing. Chair Banos read Civil

Service Rules 16.1 and 14.2(i) for the edification of the members and reminded the Board that their decision will be a recommendation to the City Manager.

Member Harris stated that Rule 16.1 cases can be tricky and the burden of proof is on the Complainant. She stated that she is tough on the City when trying to prove their burden and that she is the same way towards the Complainant. Member Harris stated that the Director is new and that the Complainant is amazing with an amazing educational background and the City is lucky to have an employee of such caliber; however, her concern with Mr. Baker is that there wasn't an attempt to work this matter out prior to bringing the matter before the Board. Member Harris also stated that she does not feel that the complainant proved his burden and that this matter does not rise to the level of an abuse of power by Mr. Kerwin. Member Harris reviewed the definition of the word "wantonly" which is used in the Complainant's letter. She stated as a manager herself, when the community wants answers it is the Manager's job to get the answers, and she feels that Mr. Kerwin was trying to get the answers for the citizens. Member Harris reiterated that the Department is happy with the Complainant's work and that there is no pressure for him to resign.

Member Riley stated that he agrees with Member Harris' point of view and her comments made.

Chair Banos stated that with deference and respect, the burden of proof was not met. He went on to state that he feels that the Department was not trying to eliminate, demote or suspend the Complainant but gave counseling which is the least they could do in regards to the Complainant's behavior. Chair Banos reiterated that the Board has found that there was no abuse of power.

Member Harris stated that the Complainant should be given the opportunity to respond to the disciplinary action which was a Record of Formal Counseling. Chair Banos responded that the Complainant can follow any administrative options available regarding the issued discipline.

Following discussion, Member Riley offered a motion to report that the Board found no abuse of power, which resulted as follows:

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

Aye: Harris, Riley and Baños

ADJOURNMENT

A break was taken between 12:20-1:20pm (Lunch). The meeting adjourned at 2:22 p.m.

SIGNATURE:

Javier Banos, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary