

# **City of Miami**

*City Hall  
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Miami, FL 33133  
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## **Meeting Minutes**

**Tuesday, May 12, 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 was called to order at 10:04 a.m. At the commencement of the meeting Roll Call was follows:*

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

**A. APPROVING THE MINUTES OF:**

Regular Meeting of April 14, 2015.

*The Board entered a motion to approve the minutes of the April 14, 2015 meeting which resulted as follows:*

**Motion by Chief Examiner Sutton, seconded by Member Ramlal, 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 Memorandum from Daniel J. Alfonso, City Manager, concerning the Grievance hearing of Miguel Hervis, Police Lieutenant, pursuant to Civil Service Rule 16.2, Complaint by Employee. No further action is required.  
(NOTIFICATION)

**NOTIFIED**

- D.2** Copy of a Memorandum from the City Manager relative to the Appeal Hearing on behalf of Yatha Legrand, Police Officer (retired), concerning her 30-hour suspension, effective January 25, 2012. Officer Legrand's 30-hour suspension, shall be rescinded. (NOTIFICATION)

**NOTIFIED**

- D.3** Copy of a Judgment from the City Manager concerning the Appeal Hearing of Larry E. Hagan Jr., Police Officer, relative to his 120-Hour suspension, effective November 12, 2013. It is ordered and adjudged that Officer Hagan is hereby terminated. (NOTIFICATION)

**NOTIFIED**

- D.4** Copy of a letter from Chief Rodolfo Llanes, Director, Department of Police, notifying Johnny Brutus, Police Officer, of his 120-hour suspension, effective May 4, 2015 and a copy of a request to appeal. A hearing has been scheduled for September 1, 2015. (NOTIFICATION)

**RECEIVED AND FILED**

**E. GENERAL ITEMS**

- E.1** Copy of a Notification from Chief Rodolfo Llanes, Director, Department of Police, of the department's action to rescind the 40-hour suspension, effective November 7, 2013, served by Rhausser Charles, Police Officer. (NOTIFICATION)  
The appeal hearing has been closed and removed from the Board's docket.  
**NOTIFIED**
- E.2** Copy of Findings of Fact in the Appeal Hearing of Jean Marie Jean-Philippe, Police Officer, relative to his 160-hour suspension, effective January 19, 2013. (DISCUSSION)  
*Chair Banos asked for the status of the Findings in this matter. The Executive Secretary informed the Board that the parties had objections to relay regarding certain language in the Findings as presented. Eugene Gibbons, attorney on behalf of the Employee, appeared before the Board and stated that he and Assistant City Attorney (ACA) Panoff did not agree on certain language of the Findings, particularly number nine (9). He advised that they discussed the issue of his client having a recording device in his car and a subsequent statement his client made to Internal Affairs. Attorney Gibbons went on to explain that he felt the question was vague as to whether his client had a recording device ever, or at the time of the interview. ACA Panoff, stated she did not recall whether or not the question was vague and would leave it up to the Board to decide. She advised that she would not object if the Board found that the question was vague, and further stated that the City has no objections to the Findings as presented to the Board.*  
  
*Attorney Gibbons asked that Finding 9 be modified to change the words "never had a recording device in the vehicle" to read "did not have a recording device in the vehicle." Chair Banos reiterated the request of Attorney Gibbons. Member Harris reviewed and read the paragraph as amended.*  
  
*Following discussion the Board entered a motion to approve the amended Findings which resulted as follows:*  
  
**Motion by Member Harris, seconded by Chief Examiner Sutton, that this matter be APPROVED. PASSED by the following vote.**  
  
**Aye:** Baños, Sutton, Harris, Ramlal and Riley
- E.3** Copy of Findings of Fact in the Appeal Hearing of Javier Herbello, Police Officer, relative to his 40-Hour suspension, effective September 26, 2014. (DISCUSSION)  
**Motion by Chief Examiner Sutton, seconded by Member Ramlal, that this matter be APPROVED. PASSED by the following vote.**  
  
**Aye:** Baños, Sutton, Harris, Ramlal and Riley
- E.4** Copy of a letter of representation and request to continue from Teri Guttman Valdes, Attorney on behalf of Janet Williams-Brewster, Grant Writer, concerning her termination, effective January 9, 2015. (DISCUSSION)  
Hearing is scheduled for May 26, 2015  
*Attorney Teri Guttman-Valdes, appeared before the Board on behalf of Ms.*

*Williams-Brewster, explained that she was recently retained in this matter, and requested a continuance to properly prepare for the hearing. She advised she received the Waiver (of Pay and Emoluments) form for her client's signature. Chair Banos asked if there were any objections. Assistant City Attorney Stephanie Panoff responded that she has no objection to a continuance. Following discussion, the Board entered a motion to grant a CONTINUANCE on behalf of the Appellant, which resulted as follows:*

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

**Aye:** Baños, Sutton, Harris, Ramlal and Riley

## **F. REPORTS**

F.1 Pending Hearings as of May 12, 2015. (NOTIFICATION)

**PRESENTED**

## **G. REQUESTS FOR HEARINGS**

## **H. TODAY'S HEARINGS**

H.1 Hearing of Appeal on behalf of Ryan Smith, Police Officer, relative to his 10-Hour Suspension, effective June 15, 2014.

*The Board entered into the appeal hearing on behalf of Officer Ryan Smith (Appellant).*

*Assistant City Attorney Stephanie Panoff (ACA Panoff) represented the Department of Police. Attorney Eugene Gibbons (Atty. Gibbons) of Buschel Gibbons, P.A., represented the Appellant. Atty. Gibbons invoked the Rule of Witnesses. All witnesses were instructed by Chair Banos to leave the chambers until called to testify, and to not discuss their testimony.*

*ACA Panoff provided an opening statement. Atty. Gibbons deferred his opening statement.*

*The following witnesses appeared on behalf of the Department, were sworn in and gave testimony in the following order:*

*(1) Robert Laurenceau, Police Sergeant, Department of Police. Questions were posed to witness Laurenceau by Member Harris, Member Riley and Chair Banos.*

*(2) Albert Vila, Police Lieutenant, Department of Police. Questions were posed to witness Vila by Member Harris and Chair Banos.*

*The department rested.*

*Atty. Gibbons provided his opening statement.*

*The following witness appeared on behalf of the Employee, was sworn in and provided testimony in the following order:*

*(1) The Appellant, Ryan Smith, testified on his own behalf. Questions were posed to Appellant by Member Riley, Member Harris and Chair Banos.*

*During Officer Smith's testimony Member Harris interjected and requested a Point of Order according to Robert's Rules. She reminded the Board that the past of the Employee should not be discussed in the fact-finding phase of a hearing. Chair Banos stated that due to the information provided by the Employee during his testimony, the Point of Order is overruled. Officer Smith's testimony resumed.*

*The Appellant rested his case.*

*Both sides provided closing arguments, then the Board entered into discussion.*

*Member Harris recalled certain portions of witness testimony, and went on to state that Police cases are always a struggle for her. Member Harris stated she feels that the City did not meet its burden in this case. She went on to state that insubordination cases are huge because they (Police) operate on orders. Member Harris stated that she feels that this is not a case of insubordination but a personality conflict. Member Harris read and reviewed one of the charges on the charging document and discussed the alleged violated departmental order. Member Harris also stated to ACA Panoff that it is not unusual for a parent to have a different last name as the child.*

*Chair Banos stated that according to the information presented, he believes that the incident occurred as stated, and went on to recall certain witness testimony. He further advised that the inconsistencies in the testimony mentioned by Atty. Gibbons in his closing, should not impeach the complete testimony of Sgt. Laurenceau.*

*Following discussion the Board reviewed and voted on each charge of violation as listed in the letter of discipline which resulted as follows:*

*The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.28.3 - Members to Conform, which resulted as follows:*

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

**Aye:** Sutton, Harris, Ramlal and Riley

**No:** Baños

*The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.32.2 - Obedience, which resulted as follows:*

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

**Aye:** Sutton, Harris, Ramlal and Riley

**No:** Baños

*The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.13.11 - Courtesy Toward Others, which resulted as follows:*

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

**Aye:** Harris and Ramlal

**No:** Baños, Sutton and Riley

*The Board entered a motion to find the Appellant GUILTY of violating Departmental Order 1, Chapter 11.6.13.11 - Courtesy Toward Others, which resulted as follows:*

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

**Aye:** Baños, Sutton and Riley

**No:** Harris and Ramlal

*The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.13.12 - Obeying Orders with Supervisors, which resulted as follows:*

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

**Aye:** Harris and Ramlal

**No:** Baños, Sutton and Riley

*The Board entered a motion to find the Appellant GUILTY of violating Departmental Order 1, Chapter 11.6.13.12 - Obeying Orders of Supervisors, which resulted as follows:*

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

**Aye:** Baños, Sutton and Riley

**No:** Harris and Ramlal

*The Board entered a motion to find the Appellant GUILTY of violating Departmental Order 1, Chapter 11.6.17.8 - Insubordination, which resulted as follows:*

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

**Aye:** Baños, Sutton and Riley

**No:** Harris and Ramlal

*The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 1, Chapter 11.6.17.39 - Any Other Act or Omission, which resulted as follows:*

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

**Aye:** Baños, Sutton, Harris, Ramlal and Riley

*The Board entered a motion to find the Appellant NOT GUILTY of violating Departmental Order 9, Chapter 13.4.10.2 - Transportation of Juveniles.*

*Member Harris requested to have discussion to state her rationale for her pending vote of Not Guilty. Member Harris opined that the decisions of the Board actually help shape the future of the City. She went on to state that it is the City's burden to prove its case which is a heavy burden, and that she feels the City didn't prove their burden on this charge. Member Sutton stated that he felt the charge was redundant and agreed with Member Harris. Chair Banos also agreed.*

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

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

**Aye:** Baños, Sutton, Harris, Ramlal and Riley

*The Board entered a motion to find the Appellant NOT GUILTY of violating Civil Service Rules & Regulations 14.2(e)1 - Insubordination.*

*Under discussion, Member Sutton stated he believes Officer Smith was not being malicious and that the Officer was only trying to help the juvenile involved in the case. Member Sutton commended the officer for trying to assist the juvenile, and further stated although he voted guilty on an earlier charge (DO 1, Ch. 11.6.17.8), after reading this Rule (14.2(e)1) his vote will be not guilty.*

*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, Harris, Ramlal and Riley

**No:** Baños

*The Board entered a motion to find the Appellant NOT GUILTY of violating Civil Service Rules & Regulation 14.2(h)3 - Disgraceful Acts, which resulted as follows:*

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

**Aye:** Sutton, Harris, Ramlal and Riley

**No:** Baños

*The Board entered a motion to find the Appellant NOT GUILTY of violating Civil Service Rules & Regulation 14.2(r) - Antagonistic Towards Others, which resulted as follows:*

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

**Aye:** Sutton, Harris and Ramlal

**No:** Baños and Riley

*Chair Banos requested a summary of the votes of guilty prior to the Board's recommendation. The Executive Secretary recalled the guilty charges which were on Departmental Order 1, Chapter 11.6.13.11; Departmental Order 1, Chapter 11.6.13.12; and Departmental Order 1, Chapter 11.6.17.8.*

*The Chair called for discussion of possible recommendations to the City Manager regarding the penalty. The Executive Secretary referred the Board to the memorandum provided listing the Officer's disciplinary history. The Board discussed the Officer's past disciplinary history.*

*The Board called Sergeant Laurenceau to provide testimony as to why the 10-hour discipline was given. Questions were posed to witness Laurenceau by Member Riley and Member Harris. Member Sutton made a statement regarding the progressive discipline process. Chair Banos clarified the issue with Member Sutton.*

*Chair Banos asked if either side wished to offer testimony during the penalty phase.*

*Attorney Gibbons called both Lieutenant Vila and the Appellant to provide testimony.*

*Chair Banos made further comments regarding Appellant's history and asked the Board for a recommendation. Member Harris stated that she voted "not guilty" on all charges, and her recommendation is that Officer Smith not receive a Reprimand in this case.*

*Following discussion Member Riley made a motion to recommend that the city manager reduce the 10-hour suspension to a 5-hour suspension, 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

*Attorney Gibbons advised that he wished to address the Board about recent matters. The Executive Secretary responded that, in accordance with the Rules, he must provide to her a letter requesting to address the Board, and the matter will be placed on the Agenda.*

*Additionally, the Executive Secretary advised the Board that Chapter 36 of the City Charter will be discussed at the June 8, 2015 Charter Review Committee meeting and she will send the Board members a reminder notice.*

#### **ADJOURNMENT**

*Breaks were taken between 11:40 a.m. - 11:52 a.m. and 12:30 p.m. - 1:07 p.m. (Lunch).*

*The meeting adjourned at 3:18 p.m.*

#### **SIGNATURE:**

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**Javier Banos, Chairperson**

#### **ATTEST:**

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**Tishria L. Mindingall, Executive Secretary**