

City of Miami

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

Tuesday, June 24, 2014

10:00 AM

Commission Chambers

Civil Service Board

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

PLEDGE OF ALLEGIANCE

The meeting was called to order at 10:04 a.m. Roll call at the commencement of the meeting was as follows:

Present: Member Harris, Member Baños, Member Riley, Jr., Member Ramlal and Member Sutton

ELECTION OF CIVIL SERVICE BOARD OFFICERS

The Executive Secretary stated that in accordance with Civil Service Rule 2.1 the first order of business after the appointment of Civil Service Board members by the City Commission is to elect officers inclusive of a Chairperson, Chief Examiner and appointed Executive Secretary. The Executive Secretary opened the floor for nominations for the position of Chair of the Board.

Under discussion, Member Banos stated he has no problem serving in the capacity of Chair as he has served in the capacity of Chair a few times in the past.

Member Riley nominated Member Banos for Chairperson. Member Banos seconded the motion. The Board considered a motion to ELECT Javier Banos to the position of Chair of the Board which resulted as follows:

Motion by Member Riley, Jr., seconded by Member Baños, to APPROVE. FAILED by the following vote.

Aye: Riley, Jr. and Baños

No: Sutton, Ramlal and Harris

Subsequent to the failed motion the Executive Secretary opened the floor for another nomination for the position of Chair of the Board. Member Sutton nominated Member Harris to be Chair of the Board. Member Banos seconded the motion. Upon hearing no other nominations the Board considered a motion to ELECT Lillie Harris to the position of Chairperson of the Board which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

The Executive Secretary congratulated member Harris as being elected Chairperson of the Board and turned the meeting over to Chairperson Harris. Chairperson Harris stated that she is grateful to serve a second term. She went on to state that she has much respect for her fellow Board members and she is looking forward to a successful, effective and efficient term.

Chairperson Harris opened the floor to nominate a Board Member as the Chief Examiner. Chairperson Harris nominated Troy Sutton as Chief Examiner. The Executive Secretary asked Chairperson Harris to allow the other Board members to nominate a Chief Examiner and that she could second the motion. Adhering to the Executive Secretary's instructions, Member Ramlal nominated member Troy Sutton to serve as the Chief Examiner of the Board. Upon hearing no other nominations, the Board considered the motion to ELECT Troy Sutton as the Chief Examiner which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

Chairperson Harris called for nominations for the position of Executive Secretary to the Civil Service Board. Member Baños nominated Ms. Tishria L. Mindingall and Member Sutton seconded the motion. Upon hearing no other nominations, the Board considered a motion to APPROVE the appointment of Tishria L. Mindingall as the Executive Secretary for the Board which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

ADOPTION OF CIVIL SERVICE RULES

Chairperson Harris called for a motion to adopt the existing Civil Service Rules and Regulations which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

Chairperson Harris extended congratulations to the Executive Secretary and the Chief Examiner and also thanked the Civil Service Board administrative staff for a job well done. The Executive Secretary thanked the Chair and the Board.

A. APPROVING THE MINUTES OF:

Regular Meeting of May 13, 2014.

The Board entered a motion to approve the minutes of the May 13, 2014 meeting which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

B. PERSONNEL MATTERS

- B.1** A copy of a memorandum from Amy Klose, Director, Department of Human Resources, confirming the request of Paul Eisenhart, Administrative Assistant III, to return to his former classification of Principal Staff Analyst, effective June 2, 2014. (NOTIFICATION)

NOTIFIED

- B.2** Request from Ruamen J. De La Rua, Police Officer, to receive retroactive seniority credit for prior service, pursuant to Rule 12.4 (DISCUSSION)
- The Executive Secretary informed the Board that Officer De La Rua was not reinstated in accordance with Rule 12.4; instead he applied as a regular employee (who went through the hiring process). She went on to say that the item was placed on the Agenda so that the decision not to grant him seniority credits would come from the Board based upon Rule 12.4. Having not seen Mr. De La Rua, Chairperson Harris asked if he was present.*

Amy Klose, Director of Human Resources, appeared before the Board to confirm that Mr. De La Rua was not reemployed pursuant to Rule 12.4 but was employed through

the regular hiring process. The Executive Secretary informed the Board that Mr. De La Rua's request for seniority credits for prior service must be denied by the Board. Member Sutton stated that he would have liked for Mr. De La Rua to appear before the Board. Chairperson Harris asked the Executive Secretary if Mr. De La Rua was notified of the meeting. The Executive Secretary responded in the affirmative. Ms. Klose assured the Board that Mr. De La Rua was not employed pursuant to Rule 12.4. Chairperson Harris informed the Board that if it denies Mr. De La Rua's request, there would be no opportunity for him to bring this matter back before the Board. Following discussion, the Board considered a motion to DENY Mr. De La Rua's request for seniority credits for prior service which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

C. MILITARY LEAVES OF ABSENCE

- C.1** Maria C. Del Rio, GIS Developer, requests re-employment as a GIS Developer following her return from military leave. A copy of her DD214 submitted.
(DISCUSSION)

The Executive Secretary informed the Board that approval of this item is necessary in order to maintain employment records for the employee, Maria C. Del Rio, pursuant to Rule 15.7.

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

D. DISCIPLINARY MATTERS

- D.1** Copy of a Judgment from the City Manager on behalf of Terrel Cheever, Emergency Dispatcher Assistant, concerning his termination, effective October 31, 2012. (NOTIFICATION)

Chairperson Harris stated that she had a question regarding the City Manager's judgment regarding Terrel Cheever. She went on to state that she wasn't present when the findings were approved but while reading through the judgment in particular item no. 7 of the judgment where it reads, "Appellant missed an emergency 9-1-1 call and did not call the citizen back to find out the details of their request for Police or Fire services.", she was present for the hearing and she does not recall that being the case. She stated her recollection from the appellant's testimony was that he did not miss a call because he was in after-call and the call went to another call taker. Member Banos stated that he respectfully disagrees with Chairperson Harris' recollection and asked the Executive Secretary if the Board can take action on "Notifications". The Executive Secretary responded in the negative.

NOTIFIED

- D.2** Copy of an Agreement between the City of Miami and Dayanna Frederick, Police Officer, relative to her 20-hour suspension, effective July 29, 2013.
(NOTIFICATION)

SETTLED : Case will be closed and removed from Board's docket.

- D.3** Copy of an Agreement between the City of Miami and Curtis Hoosier, Police Sergeant, relative to his 80-hour suspension, effective February 3, 2014. (NOTIFICATION)

SETTLED : Case will be closed and removed from Board's docket.

- D.4** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Christopher Vital, Police Officer, of his 100-hour suspension, effective June 22, 2014. (NOTIFICATION)

NOTIFIED

- D.5** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Ryan Smith, Police Officer, of his 10-hour suspension, effective June 15, 2014. (NOTIFICATION)

NOTIFIED

- D.6** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Jennifer Kawiorski, Police Officer, of her 10-hour forfeiture, effective May 28, 2014. (NOTIFICATION)

NOTIFIED

- D.7** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Jennifer Kawiorski, Police Officer, of her 40-hour suspension, effective June 17, 2014. (NOTIFICATION)

NOTIFIED

- D.8** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Luis Vargas, Police Officer, of his 100-hour forfeiture and 100-hour suspension, effective June 1, 2014. (NOTIFICATION)

NOTIFIED

- D.9** Copy of a letter from Chief Maurice Kemp, Director, Department of Fire Rescue, notifying Michael Nobo, Firefighter, of his 24-hour forfeiture, effective June 2, 2014. (NOTIFICATION)

NOTIFIED

- D.10** Copy of a letter from Chief Maurice Kemp, Director, Department of Fire Rescue, notifying Michael Nobo, Firefighter, of his 24-hour suspension, effective May 14, 2014. (NOTIFICATION)

NOTIFIED

- D.11** Copy of a letter from Chief Maurice Kemp, Director, Department of Fire Rescue, notifying Michael Nobo, Firefighter, of his 48-hour suspension,

effective May 17, 2014. (NOTIFICATION)

NOTIFIED

- D.12** Copy of a letter from Chief Maurice Kemp, Director, Department of Fire Rescue, notifying Renette Vassor, Emergency Dispatch Supervisor, of her 8-hour suspension, effective June 16, 2014. (NOTIFICATION)

NOTIFIED

- D.13** Copy of an Agreement between the City of Miami and Jesus Valdivia, Police Sergeant, relative to his 200-hour suspension, effective January 23, 2013. (NOTIFICATION)

ITEM ADDITION

SETTLED : Case will be closed and removed from Board's docket.

- D.14** Copy of an Agreement between the City of Miami and Daniel Crocker, Police Officer, relative to his 10-hour suspension, effective July 19, 2013. (NOTIFICATION)

ITEM ADDITION

SETTLED : Case will be closed and removed from Board's docket.

E. GENERAL ITEMS

- E.1** Hearing of Appeal on behalf of David Carpenter, Police Officer, relative to his 40-hour suspension, effective November 15, 2011. (DISCUSSION)

Rescheduled pursuant to continuance policy; pending settlement since April 15, 2014.

Assistant City Attorney (ACA) Diana Vizcaino appeared before the Board and reported that the matter had been settled and the agreement is pending the signature of the Chief of Police; and upon receipt, she will forward the fully executed agreement to the Board.

Eugene Gibbons, attorney on behalf of Officer Carpenter, appeared before the Board to confirm that the matter has been settled. Chairperson Harris asked if a motion for continuance pending the settlement was on the floor. Member Banos asked the Executive Secretary what the past procedure was to get settlements done in a reasonable amount of time; and if it would be more effective to reschedule the matters for hearing or if the agreements would be signed in a reasonable amount of time. ACA Vizcaino replied that Officer Carpenter personally hand-delivered his agreement to her office and that the delay was not on the City's part. ACA Vizcaino informed the Board that in the interim due to former ACA Iliana Forte's appointment by Governor Scott to sit as a member of the Broward County Judiciary as a Workers' Compensation Judge, she will represent the Departments until a new Assistant City Attorney is hired. ACA Vizcaino stated that in preparation for this meeting she noticed the delay in the receipt of settlement agreements on settled matters, and went on to assure the Board that she will meet with Police Administration to work out a much more efficient and timely system of getting settlement agreements signed.

Following discussion the Board considered a motion to CONTINUE this matter pending the settlement which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

Chairperson Harris thanked ACA Vizcaino for taking her position on the settlement agreements, and added that the goal of the Board has always been to ensure use of public funds is done efficiently and effectively.

Case will be closed and removed from the Board's docket upon receipt of a written settlement agreement or rescheduled in accordance with the Board's Continuance Policy.

E.2

Hearing of Appeal on behalf of Silvia Benitez, Emergency Dispatcher, relative to her 120-hour suspension, effective May 27, 2013. (DISCUSSION)

Rescheduled pursuant to continuance policy; pending settlement since March 4, 2014.

Osnat K. Rind, attorney on behalf of Sylvia Benitez, appeared before the Board and advised that the matter was negotiated for settlement with former Assistant City Attorney (ACA) Iliana Forte and she is waiting to receive the proposed settlement agreement from the City. ACA Diana Vizcaino stated that her understanding is that the settlement agreement was drafted, conveyed to Atty. Rind and is pending Officer Benitez' signature to be returned to the City for final execution. Member Banos asked for clarification of status of the agreement as to whether the settlement agreement was drafted or still in the negotiation stage.

Following discussion the Board moved to continue the matter based on the assurance that the agreement is pending signature only which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

Case will be closed and removed from the Board's docket upon receipt of a written settlement agreement or rescheduled in accordance with the Board's Continuance Policy.

E.3

Status update concerning the Hearing of Appeal on behalf of Jerome Williams, Police Officer, relative to his 10-hour suspension, effective October 11, 2013. (DISCUSSION)

Hearing was continued at the May 13, 2014 meeting pending submission of a corrected reprimand.

Chairperson Harris asked for the status of the matter of Jerome Williams. The Executive Secretary informed the Board that at a previous Board meeting it was represented by the Department, that a revised Reprimand would be prepared in this matter. She went on to say that the Department has returned to Officer Williams the 10-hours for which he was suspended and the matter is now a Reprimand only.

Member Banos asked the Executive Secretary if the Board has jurisdiction to consider Reprimands. The Executive Secretary responded in the negative and stated that the item was placed on the Agenda to provide the Board with the update of the

Department's decision to make the change. Member Banos asked if the discussion was for the Board to dismiss the hearing. The Executive Secretary responded in the negative and again confirmed that the item was only to update the Board.

Chairperson Harris asked if Officer Williams needed to be present before the Board. The Executive Secretary responded in the negative. Chairman Harris also asked if the Board needed to vote on this matter. The Executive Secretary responded in the negative.

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

E.4

Proposed Amendment to Rule 9 - Probation (Firefighter) (DISCUSSION)

Chairperson Harris asked who was present to discuss the proposed amendment to Civil Service Board Rule 9.3 regarding the probationary period of firefighters. Assistant Fire Chief (AFC) Adrian Plasencia, Department of Fire-Rescue, appeared before the Board and stated that the Rule now reads that the probationary period is 12 months from the initial appointment for Firefighters. He went on to say that the Fire Department would like to change the probationary period from 12 months from appointment to 10 months after successfully completing the Fire Academy. AFC Plasencia further stated that it is imperative to make the change (to the Rule) to ensure the Department's effectiveness and efficiency as well as the safety of the firefighters and all other members. He stated that presently (completion of) the academy is six months long which gives the Department a limited period of time to evaluate new firefighters and in addition to that, the evaluation period is cut short if new firefighters finish the academy in the middle of month, and the evaluation period is cut even shorter because they try to give a 30-day notice to the Civil Service Board regarding probationary extensions. AFC Plasencia went on to say that the job has changed a lot over the years from a technical aspect and the training does not stop. He further stated that the Fire Academy continues while the new members are on probation, and the new members are continuously tested to ensure they are efficient when performing their tasks. AFC Plasencia concluded that considering the dangerous and hazardous environments firefighters face, they are requesting an amendment to Civil Service Rule 9.3 not only for the safety of new firefighters but it is also imperative for the safety of all members of the Department.

Osnat K. Rind ("Atty. Rind"), attorney on behalf of the International Association of Firefighters ("IAFF"), Local #587, appeared before the Board, and stated that the IAFF objects to any ruling that the Board may make on this issue. Atty. Rind went on to say that the Firefighters have written a memo that may have been received by the Board already. She further stated that the probationary period codified in the City's Ordinances are currently the terms and conditions of employment for firefighters. Atty. Rind further stated that under State Law, probationary periods are terms and conditions of employment that cannot be unilaterally modified by the City of Miami ("City") and must be negotiated at the (collective bargaining) table. Atty. Rind reiterated that their objection is to any decision of the Civil Service Board attempting to amend the ordinances to change the terms and conditions now without negotiating with the union.

Assistant City Attorney ("ACA") Diana Vizcaino, appeared before the Board and responded that she objects to (opposing) counsel's representation that this is a matter of collective bargaining. She went on to say that the collective bargaining agreements are currently silent as it pertains to probationary employees, and that as the Board knows and as reflected in the Board's Rules, probationary employees are not permanent employees, and they have no due process rights either under the collective bargaining agreement or the Civil Service Rules. ACA Vizcaino went on to say that this issue has been litigated in various forms and in fact, back in 1999, the Civil Service Board revised Rule 9.3 relating to the length of probation for Police Officers so this is something that

the Board has done before. Atty. Vizcaino asked that the Board approve the Fire Department's request and bring the issue before the City Commission (so that the Rule is amended).

Atty. Rind stated that the fact that this issue is not covered in the collective bargaining agreement is irrelevant to state law. Atty. Rind stated that it doesn't matter if it (Probation) is or is not contained in the collective bargaining agreement; it is currently a term and condition of employment that these employees enjoy that cannot be unilaterally modified. Atty. Rind stated that the Board risks committing an unfair labor practice if this issue is voted on and forwarded to the City Commission for final approval without negotiation.

ACA Vizcaino again responded that the Board should take action, approve the revision of the Rule 9.3, allow it to go before the City Commission and Atty. Rind may file her unfair labor practice charge if deemed appropriate. Chairperson Harris asked the Executive Secretary and the Board's Special Counsel, Margaret Meyers ("Special Counsel") if the Rule amendment proposal must go before the City Commission. The Executive Secretary responded in the affirmative stating that the Rule change would be an amendment revising the Code which requires approval by the City Commission. Chairperson Harris asked the Executive Secretary if the normal procedure is to bring the issue before the Board prior to City Commission approval. The Executive Secretary responded in the affirmative. Chairperson Harris then asked how this issue differs from the existing Rule that allows Departments to request probation extensions if needed and why the Board would consider doing a "blanket extension" of everybody versus ruling on a case-by-case basis. Chairperson Harris again asked what is wrong with the current process. ACA Vizcaino responded that apparently the Fire Chief has particular reasons why he is asking that the length of the probation be extended for a few months and perhaps AFC Plasencia can articulate those reasons as outlined in the memorandum.

AFC Plasencia explained that although he stated that the average class is about six months, it's not always six months, and that right now there are two classes in the academy, which depending on their certification and qualifications, will finish at different times. Their probation upon leaving the fire academy will be for different lengths of time. He went on to explain that Firefighters work 24-hour periods, nine days a month and are constantly going on calls, which does not allow for an effective means for evaluation in the short amount of time. He stated that the Department has come before the Board in the past and recently to request probation extensions. However the change will result in more people being evaluated more effectively because the Department will have more time for further training and further evaluation to assure safety. AFC Plasencia went on to say the longer probationary period allows a more effective means to evaluate new firefighters to assure the safety of everyone in the Department.

ACA Vizcaino brought to the Board's attention that Rule 9.3 states that the probationary period of Police Officers is anywhere from 18 to 24 months. She went on to say that she and Attorney Gibbons recently litigated an arbitration wherein the employee had been on probation for quite some time and appeared before the Board for probation extensions. She advised that the probationary period does not end upon successfully completing the academy; there is a process thereafter and that seems to be the reason the Department is asking for a limited extension of the length of probation.

Member Banos asked the Executive Secretary if the Board had ever denied a request for probation extension. The Executive Secretary responded in the affirmative and confirmed that there have been cases where the Board has denied the Department's request to extend an employee's probation. Member Banos asked Member Sutton if the Chief's request is consistent with the extended period of time that's required. Member Sutton responded that he was allowing the discussion to continue and that he was going

to speak against the proposed amendment for a few reasons. Member Sutton stated that he recalled AFC Plasencia mentioning that he petitions the Board 30 days prior. Member Sutton stated that it is his understanding that if a firefighter does something detrimental a week before probation ends the Department sends a memo the Executive Secretary and time stops. He went on to state that he is not certain that the Department needs 30 days. He stated that the probation can go for 11 months and the probation period can get extended up until the last day of the probation.

Chairperson Harris asked for numbers for the length of time a firefighter is on probation. AFC Plasencia responded that the probation is a year pursuant to the Rules however, for example a typical candidate is in the Academy for 24 weeks if they are not fire certified. Depending on their certifications a candidate has will decide how long that extra time will be. The probation will still be one year but what the Department would like to do is evaluate them when they are out of the fire academy. For example if a candidate is not fire certified and his typical time is 24 weeks or six months, that gives the Department six months to evaluate the candidate. If a candidate is fire certified and he has four months plus, the Department will have 8 months to evaluate; the extensions are not consistent. Chairperson Harris asked for the approximate amount of time for the extension. AFC Plasencia responded that the probationary period now is exactly 12 months, and what the Department is asking for is approval for an additional 10 months after the candidates finish the fire academy, which will ensure the safety of the candidates who are 30-year investments. AFC Plasencia went on to state that 6 months is not enough time to evaluate the candidates and that Member Sutton brought up a very good point; however, the Department does not want a candidate who is lacking in a certain area to pass probation without being more effectively evaluated and trained as this is a life-hazardous job where people could get injured or killed.

Chairperson Harris stated that she needs clarity of the numbers. She stated that she respects what AFC Plasencia is saying because being in management she ensures that the people she manages are properly trained being in the high-liability profession. Chairperson Harris stated that there is also the Civil Service protection which is a lot of the reason why people have these jobs. She further stated that if people do something unintentional and make a mistake, they don't have the protection of the Civil Service Rules if the City decides to terminate them. She continued that the extension increases their time to be able to finally get the protection of the Civil Service Rules because in this job unfortunately we are not perfect and things happen. Chairperson Harris again asked AFC Plasencia to review the proposed numbers for the probation extension for certified and non-certified candidates. AFC Plasencia confirmed that for non-certified candidates the academy is 6 months, total probation is one year so that will give the Department 6 months from the time the candidate is out of the academy to evaluate them. He went on to say that with the proposed amendment it will give the Department an additional 4 months which will be the 10 months after the academy. Chairperson Harris reviewed the numbers for the non-certified candidates. Chairperson Harris also reviewed the extension numbers for certified candidates which will be approximately 14 months which extends them to from the additional 4 months on probation to an additional 6 months on probation.

Chairperson Harris went on to state that she recalls when firefighters come before the Board for request for extensions, generally speaking the firefighters themselves [are in agreement with] the extension. Chairperson Harris asked what is wrong with the current process for extensions. AFC Plasencia replied that the firefighters do agree with the extension request because the alternative would be termination. He went on to state that he respects the current process and that the Department does not have a history of firing candidates on probation; it makes the investment and wants to make sure the candidate is effective on the job. He advised that when a candidate's probation is extended it is not only further evaluation it is also further training given to assure

success in the position.

ACA Vizcaino stated that the Chief's 10-month extension request is not unreasonable for employees who render life-saving emergency techniques to the residents of the City. AFC Plasencia failed to mention that Chief Kemp has discussed this with the Fire union and the union had no objection to an 8 month extension so an additional 2 months is not unreasonable for the Board to consider.

Member Banos moved to grant the Department's request so that there is a motion to discuss. Member Riley asked if the Board was moving to grant the request or a recommendation. Chairperson Harris asked for the motion. Member Banos offered a motion to grant the request. Chairperson Harris asked if the motion was seconded. The motion was not seconded and failed. Member Riley again asked if the Board was making a recommendation. To answer Member Riley's question ACA Vizcaino reviewed Civil Service Rule 18, Change of Rules. She further stated that this Board recently approved a request to change a Civil Service Rule relating to military leave. She reminded the Board that the Rule Amendment went before the City Commission and was approved after second reading.

Member Riley asked if the Board votes not to move forward on this issue or make a recommendation will the request eventually go before City Commission. ACA Vizcaino responded that it can and it more likely will go before City Commission.

Member Sutton stated that there are a lot of issues in collective bargaining that may be affected that many people may not understand. Member Sutton explained that this change will not only affect the members on probation, but those on the floor in many ways. Member Sutton further explained that this change is detrimental to members and may also have an effect on the members' retirement credits in the long run - those members will not gain credits and he doesn't know if the Chief has looked into that issue. He went on to say that if a member does badly on probation and he loses points, the member must be reevaluated. Member Sutton stated being the ex-union vice president he does not recall ever fighting the Department when it came to requesting an extension for probation on the union or Department level. Member Sutton stated that he is concerned for the member's safety as well. He went on to state that his biggest issue with the proposed change is that a member's probation is extended and the member can be in a position to be fired without cause and the member will have no union or Civil Service protection and there are no other avenues to take.

Member Banos asked the Board's attorney, being that the motion he made to grant the request and it died for lack of a second was there any further discussion required on this issue. Chairperson Harris stated that this is a very important matter and the Board should not try to get through it quickly. The Chair further stated that she will make a motion that will probably involve the first job of the Chief Examiner, Member Sutton. She went on to state that she feels that the Board should not make a decision today without further investigation of the points made by both the Union Attorney and AFC Plasencia, which are legitimate and have valid arguments on both sides. She went on to state that the Board has done this in the past when amendments, changes or cases were before them.

Chairperson Harris made a motion for Chief Examiner Sutton to investigate and do research and to continue this matter at the next meeting or a meeting soon thereafter. Chairperson Harris asked for a second. Being that the motion was not seconded Chairperson Harris confirmed that the motion failed due to lack of a second. ACA Vizcaino stated that respectfully asked that the Board not take into account whether someone is receiving pension or retirement credits while on probation, as it is irrelevant [to this request] and has nothing to do with performance; and as stated earlier these are

probationary employees and the City of Miami and its administrators have a duty to assure that they are qualified and competent enough to render emergency services to the citizens. She further stated that she is and has been a member of the collective bargaining team for four years and the City does not bargain over the terms and conditions of the employment for probationary employees. ACA Vizcaino asked the Board to approve the recommendation of the Chief's request and allow the City Commission to make a decision. Chairperson Harris asked Atty. Rind if she had further comments. Attorney Rind stated that ACA Vizcaino is wrong. Probationary status and pension issues are all bargainable issues. Atty. Rind further stated that this Board should not consider this matter and should not make a decision without having the employees present to address their concerns on this matter. Chairperson Harris stated that this is a very important issue and she differs with the City Attorney regarding consideration of a person's retirement points. She stated that the people come here for Civil Service protection.

Member Banos renewed his motion to grant the Chief's request. The motion failed due to lack of a second. Member Riley made a motion that the Board not address the issue or make a recommendation and let it go before the City Commission. That motion also failed due to lack of a second.

Chairperson Harris again stated the number of months for the proposed probationary extension which are between 4 to 6 months and that she does not understand what the problem with the current process is. Member Sutton stated that the union agreed to 8 months and the Chief wants 10 months. He further stated that the probationary period has been 12 months for 44 years. He stated that the time and place to agree on this is in collective bargaining. Member Sutton made a motion to DENY the Department's request for Amendment, which was seconded by member Riley.

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

Aye: Sutton, Ramlal, Riley, Jr. and Harris

No: Baños

ACA Vizcaino stated that this matter will likely still go before and be decided by the City Commission. She further stated that the Board's decision to deny the Chief's request will be noted and that this matter will not be a part of collective bargaining and she speaks on behalf of the City Manager also. ACA Vizcaino advised the Board of its quasi-judicial status and stated that any ex-parte communications with the union's counsel or any counsel are inappropriate and to refrain from such unless the City Attorney is present.

Before adjournment, Chairperson Harris announced one additional order of business. Board Member Ramlal advised that she wished to change her vote to reflect "Yes" on Item E4, the proposed amendment to Rule 9. The Executive Secretary confirmed that there was a motion to DENY the department's request. The Executive Secretary reviewed the motion made by Member Sutton and seconded by Member Riley, and the subsequent vote. The Executive Secretary confirmed the motion PASSED 4-1.

E.5

Copy of a Request to Continue from Luke Savage, Attorney, on behalf of the Department, concerning the Appeal hearing of Sabine Raymovil, Police Officer, relative to her 20-hour suspension, effective April 3, 2013. Eugene Gibbons, Attorney, has an objection to the continuance request.
(DISCUSSION)

The Appeal Hearing is scheduled for today.

Attorney Luke Savage appeared before the Board on behalf the Department to inform the Board that the City no longer requires an extension in this matter. Atty. Savage also informed the Board that the discipline recommendation that was previously a written Reprimand with a 20-hr suspension has been reduced to a Reprimand only pursuant to the Police Chief. Atty. Savage stated that the Chief would like this matter dismissed. Chairperson Harris informed Atty. Savage that a matter is not dismissed because of the change in a discipline. Attorney Eugene Gibbons appeared before the Board on behalf of the employee, Sabine Raymonvil, Police Officer. Atty. Gibbons stated his client is in opposition of the City's request to have this matter continued. Atty. Gibbons stated that this would be the City's third request and the employee has not taken a continuance and he is in opposition of such. Atty. Gibbons stated that he was informed prior to the Board meeting that the hours were removed from the discipline and that now there is a written Reprimand and he cannot move the case forward. Member Banos moved to have the matter dismissed. Chairperson Harris stated that what was before the Board and included in the meeting packages was a Reprimand with hours and based on that the matter can be heard by the Board. Unless the Board is being informed that the employee agrees with the Reprimand. Atty. Gibbons stated that the employee does not agree and his client opposes the continuance. Chairperson Harris asked Atty. Gibbons to confirm that the employee does not accept the City's offer. Atty. Gibbons responded in the affirmative. Chairperson Harris asked Atty. Gibbons if he still wants the Board to hear the case of the Reprimand and the 20-hr suspension. Atty. Gibbons responded in the affirmative and stated that he is prepared to go forward with the case.

Member Banos stated his understanding is that the employee is challenging the actions of the City which is a Reprimand and the Board has no jurisdiction to hear such matters. Member Banos stated that he is not willing to go beyond the specific instructions of the Civil Service Rules and jurisdiction pertaining to such matters. He went on to state the City at this point only wants a Reprimand only which is the lowest discipline other than an absolute acquittal. Member Banos extended an apology to Chairperson Harris and stated that he does see a basis not to dismiss the case because it is a waste of everybody's time when the City has agreed to reduce the discipline to a reprimand only. Chairperson Harris again stated that Atty. Gibbons does not agree with the City's decision to reduce the discipline. Chairperson Harris and Member Banos disagreed on whether the issue is not subject to Atty. Gibbons' acceptance. Chairperson Harris stated that she would get clarification of the Rules. Chairperson Harris then allowed Member Banos to make his statements. Member Banos asked the Board's counsel for a ruling on the issue of the Board's jurisdiction. Member Banos also stated that the position of the Chair of the Board is to run the meeting but not a basis to question the parties. Member Banos stated that the Board members should be allowed at the time of discussion to ask questions and the other Board members are prevented from engaging in the process and the Chair will end up giving an opinion of the case.

Member Banos reiterated that the purpose of a Chairperson is to run the meeting only. Member Banos stated that the Board should not begin the process by asking the parties questions but the Board should either rule or overrule a position or rule to go forward or not go forward on a particular item. Chairperson Harris stated she is the Chairwoman and still a Board Member and as the Chairwoman she has the responsibility to ask the questions to each Representative. Chairperson Harris stated that she will have discussion and she wanted clarification from the union's attorney. She stated that it is important that the Board gets clarification on the Rule. She went on to state that the City cannot just usurp an employee's right to come before the Board. The Union's attorney has not accepted the City's offer and the employee wishes to have a hearing based on a reprimand and the 20 hours. Atty. Gibbons clarified that there was not an offer to settle the matter and that he was informed that the Chief decided unilaterally that he would

withdraw the 20 hours. Atty Gibbons continued to state the reason he is before the Board is to oppose a continuance for the reasons cited. He stated that the City has asked for two continuances and the Employee has not asked for any continuances. Atty. Gibbons stated that he is not prepared to argue the legality of whether the Chief's action, removing the hours, moots the appeal and that he would need to conduct legal research on what the Board has done in the past on these matters.

Chairperson Harris asked Atty Gibbons was he requesting a continuance. Atty. Gibbons responded in the negative that he is not requesting a continuance. Atty. Gibbons stated that his concern regarding the issue is whether he is barred from moving forward before the Board because of the Chief's actions, removing the time. Chairperson Harris asked special counsel to advise the Board on the matter on the docket for hearing regarding the reprimand and 20 hour suspension. Special Counsel responded that the Board does not have jurisdiction on reprimands and that do not include a penalty. Special Counsel continued stating that in the past the Board, in fact on May 13, 2014 is allow the matter to be continued until the submission of an amended reprimand that delineated a reprimand with no penalty. Chairperson Harris stated that Atty Savage presented new information to the Board. Special Counsel advised the Board that a similar matter occurred on May 13, 2014 where there was a Reprimand with a penalty and the hours were credited back and the discipline was reduced to a Reprimand only and the Board had no jurisdiction to hear the matter. Chairperson Harris asked Atty. Savage if he was requesting a continuance. Atty. Savage responded in the negative stating that the request was withdrawn. Chairperson Harris asked for discussion from Board Members. Chairperson Harris asked Atty Gibbons if he was opposed to a continuance and if he was prepared to go forward pending a vote by the Board. Atty. Gibbons responded in the affirmative.

Chairperson Harris asked Atty. Savage if he was prepared to go forward. Atty Savage responded clarifying that the matter is not an offer of settlement. That in fact the Chief has rescinded the 20-hr suspension and the hours have credited back to the employee and there is only a written Reprimand that there would be nothing for the Board to consider. He went on to state the discipline now is a reprimand and the Board has no jurisdiction over such matters but that he would leave it to the special counsel to comment. Atty. Vizcaino confirmed that the hours have been credited back to the employee and the Board has no jurisdiction to address Reprimands. Member Banos moved for the matter to be continued allowing the Department to formally amend the Reprimand at which time this Board will likely dismiss the action. Member Riley seconded the motion. Chairperson Harris stated that the Board should be aware that it is their responsibility to assure that the City does not circumvent the Rules. The Chair went on to state that these hearings are name clearings stating that hours is one thing but people come here to clear their name. The Chair stated that in all of these cases the persons served the penalty before requesting an appeal hearing, exercising their rights. The Chair stated that employees come to be heard to clear their name and get their hours back. She stated that the City then changes the discipline and employee does not get a chance to be heard by the Board to clear their name.

The Chair stated that she disagrees with the Departments and feels the Departments circumvent the Rules and the employee's ability to be heard to clear their names. The Chair stated that she may not know all the facts of the case but she knows that this name clearing where an employee gets an opportunity to give their side of the story and present their facts of the case. Member Banos stated that in a criminal or civil matter if the Plaintiff or the State dismisses the case before you go in front of them, you don't get a trial which is the basis of the process. In this case they have taken the matter out of our hands and it is their prerogative as to the way they want to reprimand the employee. Member Banos stated the same thing happened the last time when I let the employee come up and tell his situation. He went on to state that the Board is not in the process

of name clearing but deciding whether or not the reprimands meet the Civil Service Rules. Chairperson Harris stated that this is not the equivalent of dismissal and the employee will still have a reprimand on their file. Atty. Savage stated the City is withdrawing the request for continuance and that it is not the City's intention to circumvent the Civil Service Rules. Atty. Savage stated that the reason for the request for continuance today was due to a critical witness being out of the country and the request for continuance was unrelated to whether or not the employee opposed the continuance.

ACA Vizcaino stated that it is the Chief of Police's discretion and the Chief made a decision in this case to issue a reprimand of which the Board has no jurisdiction. ACA Vizcaino went on to state that a name clearing hearing and a civil service hearing are two different procedures. If an employee wishes to have a name clearing hearing there is an APM and they can ask for a name clearing hearing with the Department of Human Resources. Chairperson Harris recounted the Chief of Police's decision. Member Banos repeated his motion to CONTINUE the matter pending the Department's amendment of the Reprimand rescinding the 20-hour suspension. Member Riley seconded the motion. Motion passed 3-2. The Executive Secretary called the roll. Motion passed 3-2. The Executive Secretary asked if this matter should be carried over to the next agenda. Chairperson Harris responded in the affirmative.

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

Aye: Sutton, Riley, Jr. and Baños

No: Ramlal and Harris

E.6

ITEM ADDITION

Copy of a Request to Continue from Ronald J. Cohen, Attorney on behalf of Raphael Gonzalez, Superintendent of Parks, concerning the Appeal hearing relative to his termination, effective March 21, 2014. Diana Vizcaino, Assistant City Attorney, has no objection to the request. (DISCUSSION)

The Appeal Hearing is scheduled for July 8, 2014.

Attorney Ronald Cohen submitted a letter on behalf of the employee Raphael Gonzalez, requesting a continuance in this matter. Assistant City Attorney ("ACA") Vizcaino stated that Atty. Cohen asked her to relay to the Board that he was unable to attend the meeting and to request a continuance due to being recently retained in this matter. She went on to say that the City has no objection to a continuance. Following discussion the Board considered a motion to CONTINUE which resulted as follows:

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

F. REPORTS

F.1

Pending Hearings as of July 8, 2014. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS

H. TODAY'S HEARINGS**H.1** Hearing of Appeal on behalf of Francisco Sallano, Police Officer, concerning his 10-hr forfeiture, effective December 6, 2012.

Chairperson Harris asked for the status of the appeal of Francisco Sallano. Assistant City Attorney ("ACA") Diana Vizcaino appeared before the Board and advised that the Department and Atty. Gibbons entered into a verbal agreement to reduce the discipline from a 10-hour forfeiture to a 5-hour forfeiture and the reduction in hours was approved by the Chief of Police. Eugene Gibbons, attorney on behalf of the employee, confirmed the proposed verbal settlement agreement. ACA Vizcaino stated that she will execute an agreement and forward the agreement to Atty. Gibbons for execution. Chairperson Harris asked for a motion. Member Banos made the motion to CONTINUE this matter pending the settlement. Member Riley seconded the motion.

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

Case will be closed and removed from the Board's docket upon receipt of a written settlement agreement or rescheduled in accordance with the Board's Continuance Policy.

H.2 Hearing of Appeal on behalf of Jean Marie Jean-Philippe, Police Officer, relative to his 160-hour suspension, effective January 19, 2013.

Chairperson Harris asked for the status of the appeal on Police Officer Jean Marie Jean-Phillip. Assistant City Attorney ("ACA") Diana Vizcaino appeared on behalf of the Department to request a continuance. ACA Vizcaino informed the Board that the City is requesting its first continuance due to the Internal Affairs detective being hospitalized. Eugene Gibbons, appeared before the Board on behalf of the employee and confirmed that the Employee has had two continuances and therefore he does not object to the City's request for continuance. Member Banos offered the motion to Grant the City's continuance, which was seconded by Member Sutton.

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

H.3 Hearing of Appeal on behalf of Sabine Raymovil, Police Officer, relative to her 20-hour suspension, effective April 3, 2013.

Chairperson Harris asked for the status of the Sabine Raymonvil matter. The Executive Secretary confirmed that this matter will be on the Board's July 8th agenda pending the revised reprimand as discussed earlier in the meeting.

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

Aye: Sutton, Riley, Jr. and Baños

No: Ramlal and Harris

H.4 Hearing of Appeal on behalf of JeanPaul Guillot, Police Officer, concerning his 160-hour suspension, effective October 15, 2013.

City Attorney ("ACA") Diana Vizcaino appeared before the Board and stated that this matter is currently being handled by Outside Counsel Attorney Luke Savage of the law firm Allen, Norton and Blue due to a possible conflict. She went on to advise that the conflict issue is being reviewed by her office and that a conflict may no longer exist in this matter, and upon determination the matter may be bought back in-house. Eugene Gibbons, representing the employee, appeared before the Board and stated that he does not object to the City's request for a continuance. Member Banos asked the Executive Secretary for the continuance history in this matter. The Executive Secretary confirmed that this is the first continuance. Member Banos moved to grant the continuance, which was seconded by Member Sutton.

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

Aye: Sutton, Ramlal, Riley, Jr., Baños and Harris

ADJOURNMENT

The meeting adjourned at 11:30 a.m.

SIGNATURE:

Lillie Harris, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary