

City of Miami

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

Tuesday, July 8, 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, Board Member*

PLEDGE OF ALLEGIANCE

The meeting commenced at 10:00 a.m.

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

Absent: Member Ramlal

A. APPROVING THE MINUTES OF:

Regular Meeting of June 24, 2014.

The Board entered a motion to approve the minutes of the June 24, 2014 meeting, which resulted as follows:

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

Aye: Sutton, Riley, Baños and Harris

Absent: Ramlal

B. PERSONNEL MATTERS

- B.1** A copy of a memorandum from Amy Klose, Director, Department of Human Resources, confirming the request of Siamak Noorizadeh, Engineering Technician III, to return to his former classification of Engineering Technician I, effective July 7, 2014. (NOTIFICATION)
- NOTIFIED**

C. MILITARY LEAVES OF ABSENCE**D. DISCIPLINARY MATTERS**

- D.1** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Trinidad Varela, C.I.S. Desk Operator, of her 8-hour suspension, effective June 24, 2014 and a copy of a request to appeal from Osnat K. Rind, Attorney on behalf of Ms. Varela. A hearing of appeal has been scheduled for August 19, 2014. (NOTIFICATION)
- NOTIFIED**
- D.2** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Toniko Thompson, Public Service Aide, of her termination, effective June 16, 2014. (NOTIFICATION)
- NOTIFIED**
- D.3** Copy of an Agreement between the City of Miami and David Carpenter, Police Officer, relative to his 40-hour suspension, effective November 15, 2011. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

- E.1 Status update concerning the Hearing of Appeal on behalf of Sabine Raymonvil, Police Officer, relative to her 20-hour suspension, effective April 3, 2013. (DISCUSSION)

The Appeal Hearing was previously scheduled to be heard June 24, 2014.

Chairperson Harris asked for the status of the appeal of Officer Sabine Raymonvil. Assistant City Attorney (ACA) Diana Vizcaino appeared before the Board and stated that Attorney Luke Savage of the law firm Allen, Norton and Blue is on vacation today and that she is standing in on his behalf. She went on to say that a Change of Attendance has been provided which reflects the return of the 20-hour suspension (previously issued to Officer Raymonvil.)

Following discussion, Member Banos made a motion which was seconded by Member Sutton to have the matter dismissed and removed from the Board's agenda.

Under discussion on the motion, Member Sutton asked ACA Vizcaino to confirm the removal of the 20 hours from the Reprimand.

Chairperson Harris stated that she respects the Board's vote; however as the "watchdog" over the Civil Service Rules, Board Members must be aware that there is a difference between an employee who has filed to have a hearing after they have been disciplined and a department director that decides to reduce the penalty to a reprimand only. She went on to say that the difference is the employee loses his/her opportunity to have a hearing whenever the penalty is reduced to a reprimand because the Board has no jurisdiction to hear the case. Chairperson Harris further stated that at the last meeting, the employee was present to go forward with her case but the City showed up to say that the Board has no jurisdiction because Officer Raymonvil would receive just a Reprimand since the department was [giving back the pay for] 20 hours. She stated that she believes there should have been a settlement respectfully offered to the employee that has already been penalized, served the 20 hours, and properly followed the rules. Chairperson Harris went on to say that for the department to say it is removing the 20 hours, the department is basically telling the employee that she has no right to be heard concerning a Reprimand she does not want on record. Chairperson Harris stated that she is not knocking anyone on either side but she feels that it is improper for the City to come the day of [a hearing] and say that they are [reducing penalty to reprimand only] without the other side being made aware. She went on to say that she feels the City is taking a second bite of the apple by interfering with the employee's right to be heard especially when the employee may have chosen to go forward and rejected the City's settlement offer. Chairperson Harris further stated that the Board needs to operate with caution to ensure that everyone follows the rules and not intentionally or unintentionally circumvent the rules.

Member Banos stated that he agrees with the Chair. He went on to say that he thinks it is reprehensible when the employee spends a few months thinking they have to defend themselves and for the City, at the last minute, to come and say, "Sorry, we are going to take it out of the Board's hands by reducing the penalty to just a Reprimand." Member Banos further stated that his understanding is that it is the Department's prerogative at any point in time to issue a Reprimand which the department could have done initially or settled the issue of the hours [by reducing the hours] to a Reprimand which was another choice they had, but they decided to amend the discipline. He went on to say that when

the Department [reduces the penalty to a reprimand], he is not sure they are circumventing the process, but perhaps because of their own issue with a witness, they felt it was better to take the position of a Reprimand; and though they considered what the person did to be something reprehensible, they just could not prove their case. Member Banos further stated that while he agrees with Chairperson Harris that it is not the best practice for the City to take that position in the end, he does not see the problem with them being able to do it based on the Rules themselves since the department can amend the original discipline to just a Reprimand, which takes it out of the Board's hands.

Chairperson Harris stated that she agrees with Member Banos that the Department Heads have the authority to issue discipline and she respects that; however, she believes that it should have been an offer in the form of an agreement between both parties since in this case the attorney for the employee stated that they were not interested in an offer and wanted to go forward with their case. She went on to state that if the City chooses to do that after the employee has exercised their right and met the criteria to request a hearing, it should be done in the form of an offer to the employee to say whether or not she accepts the offer. Chairperson Harris further stated that the employee wanted to have a hearing because her goal is to be possibly found not guilty and not have a Reprimand in her file, but the City is not rescinding the Reprimand so it will remain in the employee's record. She stated that the Board sees this happening all the time where the two parties will come and settle on just the Reprimand but the employee did not say that she agreed with the department which is the difference in this matter and that is what the Board needs to be careful of.

ACA Vizcaino stated that the first time Mr. Savage appeared before the Board, there was not a settlement offered to Ms. Raymonvil. She went on to say that the Chief of Police made a decision to rescind the suspension and issue a Reprimand which is within his sole discretion and authority to do so.

Member Sutton asked if the Police Chief decided to take away the hours and reduce the penalty to a reprimand only, would the (appeal) process start over or would the employee have avenues or the ability to grieve or fight the discipline since the time frame has passed. The Executive Secretary responded that Reprimands are not appealable before the Board. ACA Vizcaino added that it is not a new discipline being issued but it is an amended or revised discipline for which this Board has no jurisdiction. She went on to say that under the collective bargaining agreement there are no due process rights, so the employee is not entitled to arbitration on discipline resulting in a reprimand only.

Sean Moy, President, AFSCME Local 1907, appeared before the Board to announce that the issue of Reprimands not being grievable will be addressed in negotiations. He stated the Reprimand subject has never come up before but it will be discussed [during collective bargaining]. Mr. Moy also advised that Attorney Rind had various hearings today which is why she was absent.

Following discussion, the motion on the floor to have the matter of Officer Sabine Raymonvil dismissed and removed from the Board's docket resulted as follows:

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

Aye: Sutton, Riley and Baños

No: Harris

Absent: Ramlal

E.2

Copy of a joint Request to Continue from Diana Vizcaino, Assistant City Attorney and Osnat K. Rind, Attorney, concerning the appeal hearing of Lewis Mahoney, Park Manager II, relative to his 5-day suspension, effective March 24, 2014. (DISCUSSION)

The Appeal Hearing is scheduled for today.

Assistant City Attorney (ACA) Diana Vizcaino appeared before the Board and advised that she spoke with Osnat Rind, Attorney on behalf of Lewis Mahoney, and they agreed to request a joint continuance in this matter. ACA Vizcaino went on to state that Ms. Rind submitted an email regarding the continuance to the Civil Service Board Office and it was confirmed.

Member Banos entered a motion to continue this matter. Member Sutton seconded the motion. Chair Harris thanked ACA Vizcaino for sitting in for opposing counsel however advised that for the record it would be nice for the other attorneys to attend the meetings even if they have a motion for Continuance because it is never known how the Board will vote. Chair Harris went on to say that the Board may not grant the continuance so for future reference both parties should be in attendance. ACA Vizcaino stated that in all fairness, on behalf of Ms. Rind and Mr. Gibbons, their offices are far away and for them to come before the Board for two minutes to request a continuance, which for this case is the first time for a continuance, she does not think its unreasonable for her not to be here.

Member Banos stated that he sees the Chair's point, sometimes the Board denies continuance requests and will move forward and people have been surprised.

Following discussion, the motion on the floor to GRANT the JOINT CONTINUANCE, resulted as follows:

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

Aye: Sutton, Riley, Baños and Harris

Absent: Ramlal

- E.3 Copy of a Request to Continue from Eugene Gibbons, Attorney, on behalf of Reynaldo Goyos, Police Officer, concerning his 40-hour suspension, effective January 15, 2013. Diana Vizcaino, Assistant City Attorney, has no objection to the request. (DISCUSSION)

The Appeal Hearing is scheduled for today.

Member Banos requested that this item be moved to the end of the meeting so that he may excuse himself from the Board discussion. He went on to re-state his conflict with hearing this matter. Chair Harris agreed and without objection, deferred this matter to the end of the Agenda.

Following discussion of other Agenda matters, Chairperson Harris addressed Attorney Eugene Gibbons' written request for a continuance on behalf of Reynaldo Goyos. Assistant City Attorney Diana Vizcaino appeared before the Board and advised that she had no objection to the continuance.

Member Sutton offered a motion to GRANT the CONTINUANCE on behalf of the employee, the result of which was as follows:

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

Aye: Sutton, Riley and Harris

Absent: Ramlal and Baños

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 Reynaldo Goyos, Police Officer, concerning his 40-hour suspension, effective January 15, 2013.

CONTINUED : There was no action in this matter as a Continuance was granted at this meeting.

- H.2 Hearing of Appeal on behalf of Jean Marie Jean-Philippe, Police Officer, concerning his 200-hour suspension, effective February 16, 2013.

Chairperson Harris asked for the status of the Jean Marie Jean-Phillipe case. Assistant City Attorney Diana Vizcaino appeared before the Board and requested a continuance in this matter which she advised, would be the first continuance. ACA Vizcaino informed the Board that Mr. Gibbons has no objection to the continuance.

Following discussion, Member Banos offered a motion to GRANT the CONTINUANCE

requested by the DEPARTMENT, and Member Sutton seconded the motion. The Board voted as follows:

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

Aye: Sutton, Riley, Baños and Harris

Absent: Ramlal

- H.3** Hearing of Appeal on behalf of Lewis Mahoney, Park Manager II, concerning his 5-day suspension, effective March 24, 2014.

Chair Harris asked for the status of the case of Lewis Mahoney. Assistant City Attorney Diana Vizcaino appeared before the Board and advised that the Board had already granted a continuance in this case.

CONTINUED : There was no action in this matter as a Continuance was granted at this meeting.

- H.4** Hearing of Appeal on behalf Jose Rilo, Parks Operations Coordinator, concerning his 3-day suspension, effective March 24, 2014.

Chairperson Harris asked for the status of the case of Jose Rilo. Assistant City Attorney Diana Vizcaino appeared before the Board and reported that the parties have entered into a tentative settlement agreement in this matter, which will be circulated and executed.

The Executive Secretary asked the Chair if there was a motion to Continue this matter or should the matter be carried over to the next Board meeting. Without objection, Chair Harris instructed the Executive Secretary to carry the matter over to the next Board meeting pending the settlement agreement.

DISCUSSED

ADJOURNMENT

The meeting adjourned at 10:26 a.m.

SIGNATURE:

Lillie Harris, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary