

City of Miami

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



Meeting Minutes

Tuesday, December 15, 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 10:00am, with the Pledge of Allegiance. Roll Call at the start of the meeting was as follows:

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

Absent: Member Riley

ADOPTION OF TODAY'S AGENDA

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

Aye: Baños, Sutton, Harris and Ramlal

A. APPROVING THE MINUTES OF:

Regular Meeting of December 1, 2015.

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

Aye: Baños, Sutton, Harris and Ramlal

B. PERSONNEL MATTERS**B.1**

Copy of a memorandum from Peter Iglesias, Sr. Director, Building Department, requesting to extend the probationary period of Andre Perez, Building Inspector, for 6 additional months beyond December 22, 2015.
(DISCUSSION)

Rene Diaz, Chief of appeared before the Board and advised that the Department wished to extend the probation of Mr. Perez for six (6) months. Chair Banos asked if Mr. Perez was present and agreed with the extension. Andre Perez, Building Inspector, appeared before the Board and confirmed that he was in agreement with the extension. Following discussion, the Board entered a motion to APPROVE the request of the Board to extend the probationary period of Mr. Perez for six (6) additional months beyond December 22, 2015, which resulted as follows:

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

Aye: Baños, Sutton, Harris and Ramlal

C. MILITARY LEAVES OF ABSENCE**D. DISCIPLINARY MATTERS****D.1**

Copy of a letter from Chief Rodolfo Llanes, Director, Department of Police, notifying Workmond Napoleon, Police Officer, of his 10-hour forfeiture, effective December 9, 2015. (NOTIFICATION)

NOTIFIED

- D.2 Copy of a letter from Chief Rodolfo Llanes, Director, Department of Police, notifying Sonia Fernandez, Police Officer, of her 10-hour forfeiture, effective December 11, 2015. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

- E.1 Copy of Findings and Recommendations concerning the Grievance Hearing on behalf of Robert Laurenceau et al, Police Sergeant, concerning the 2015 Lieutenant's exam. (DISCUSSION)

The Executive Secretary advised that the Board had copies of the drafted Findings, as well as the objections and recommendations from both attorneys. Luis Fuste, Attorney on behalf of the Grievants, appeared before the Board and reviewed his recommended changes. Carlos Gamez, Assistant City Attorney, appeared before the Board and reviewed his recommended revisions to the Findings. Board members considered the revisions posed and discussed the amendments to be made to the Findings.

Following discussion, the Board entered a motion to APPROVE the Amended Findings of Fact and Recommendations, which resulted as follows:

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

Aye: Baños, Sutton, Harris and Ramlal

- E.2 Copy of a Settlement Agreement between the City of Miami and Johnny Brutus, Police Officer, concerning his Termination (CSB #15-10D), effective August 14, 2015. (NOTIFICATION)

NOTIFIED

- E.3 Copy of a Settlement Agreement between the City of Miami and Johnny Brutus, Police Officer, concerning his 120-hour suspension (CSB #15-05D), effective May 4, 2015. (NOTIFICATION)

NOTIFIED

F. REPORTS

- F.1 Pending Hearings as of December 15, 2015. (NOTIFICATION)

G. REQUESTS FOR HEARINGS

H. TODAY'S HEARINGS**H.1**

Hearing of Appeal on behalf of Adam Gurlacz, Police Officer, concerning his 80-hour suspension, effective July 15, 2015.

The Board entered into the Appeal hearing on behalf of Adam Gurlacz, Police Officer, concerning his 80-hour suspension, effective July 15, 2015. Eugene Gibbons, Attorney at Law, represented the Appellant. Carlos Gamez, Assistant City Attorney (ACA) represented the Department of Police.

ACA Gamez provided opening statements. Attorney Gibbons reserved opening statements until presenting his case in chief. Witnesses for the Department appeared in the following order:

- 1. Kimberly Caruso, Police Lieutenant, City of Miami Department of Police. Questions were posed to witness Caruso by Members Harris, Sutton and Ramlal.*

The Department rested.

Attorney Gibbons made opening statements. Witnesses for the Appellant appeared in the following order:

- 1. Adam Gurlacz, Appellant. Questions were posed to witness Gurlacz by Members Harris and Baños.*

The Appellant rested.

The Department re-called Lt. Kimberly Caruso as a rebuttal witness. Questions were posed to rebuttal witness Caruso by Members Harris and Sutton. Closing statements were made by Assistant City Attorney Gamez and Attorney Gibbons. The Board then began deliberation and evaluation of the evidence presented.

Following discussion, the Board entered a motion to find the Appellant NOT GUILTY of Charge #1 - D.O. 1, Ch. 11.6.1.2 - Members to Know Rules, which resulted as follows:

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

Aye: Sutton, Harris and Ramlal

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #2, D.O.1, Ch. 11.6.28.3 - Members & Civilians to Conform, which resulted as follows:

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

Aye: Sutton, Harris and Ramlal

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #3, D.O. 1, Ch. 11.6.56.1 - Authorized Use of Vehicle, which resulted as follows:

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

Aye: Baños, Sutton, Harris and Ramlal

A motion to find the Appellant NOT GUILTY of violating Charge #4, D.O.1, Ch. 11.6.56.4 - Operation of Vehicle, was made by Member Harris; however, it died for lack of a second.

The Board entered a motion to find the Appellant GUILTY of violating Charge #4, D.O.1, Ch. 11.6.56.4 - Operation of Vehicle, which resulted as follows:

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

Aye: Baños and Ramlal

No: Sutton and Harris

The previous motion having FAILED, the Board entered a motion to find the Appellant NOT GUILTY of violating Charge #4, D.O. 1, Ch. 11.6.56.4 - Authorized Use of Vehicle, which resulted as follows:

Motion by Member Harris, seconded by Chief Examiner Sutton, to APPROVE. FAILED by the following vote.

Aye: Sutton and Harris

No: Baños and Ramlal

The Board agreed to report tie votes on the previous charges.

The Board entered a motion to find the Appellant GUILTY of violating Charge #5, D.O. 1, Ch. 11.6.56.6 - Operator Accountable, which resulted as follows:

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

Aye: Baños and Ramlal

No: Sutton and Harris

The previous motion having FAILED, the Board entered a motion to find the Appellant NOT GUILTY of violating Charge #5, D.O. 1, Ch. 11.6.56.6 - Operator Accountable, which resulted as follows:

Motion by Member Harris, seconded by Chief Examiner Sutton, to APPROVE. FAILED by the following vote.

Aye: Sutton and Harris

No: Baños and Ramlal

The Board agreed to report tie votes on this charge.

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #6, D.O. 1, Ch. 11.6.56.9 - Driving Practice, which resulted as follows:

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

Aye: Baños, Sutton, Harris and Ramlal

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #7, D.O. 14, Ch.2.4.12 - Personal Use, which resulted as follows:

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

Aye: Baños, Sutton, Harris and Ramlal

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #8, Civil Service Rule 14.2(d) - Willfully Violated Civil Service Rules, which resulted as follows:

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

Aye: Sutton, Harris and Ramlal

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #9, Civil Service Rule 14.2(e)2 - Serious Breach of Proper Discipline, which resulted as follows:

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

Aye: Sutton, Harris and Ramlal

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #10, Civil Service Rule 14.2(e)3 - Result in Loss or Injury, which resulted as follows:

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

Aye: Sutton, Harris and Ramlal

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #11, Civil Service Rule 14.2(h) - Guilty of Insubordination, which resulted as follows:

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

Aye: Sutton, Harris and Ramlal

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #12, Civil Service Rule 14.2(l) - Careless or Negligent, which resulted as follows:

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

Aye: Sutton, Harris and Ramlal

No: Baños

The Board entered a motion to find the Appellant NOT GUILTY of violating Charge #13, FOP Contract Article 41.1 - Vehicle Program, which resulted as follows:

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

Aye: Baños, Sutton, Harris and Ramlal

Following the voting on charges, Member Harris asked whether the Board should take an official vote on ensuring that the record reflects that a tie vote is a "win" in the column of the Appellant. Discussion ensued regarding what the Board should add to its Findings and Recommendations report to the City Manager. Following discussion, the Board entered a motion to add a statement to the effect that a "tie vote" should be considered the same as "not guilty", in accordance with case law (Fitzpatrick v. City of Miami Beach, 328 So.2d 578 (1976)). This motion resulted as follows:

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

Aye: Baños, Sutton, Harris and Ramlal

ADJOURNMENT

Breaks were taken between: 10:05 am-10:08am; 11:04 am - 11:09 am; 1:01 pm - 1:05 pm and 2:46 pm - 2:50 pm. There being no further business before the Board, the meeting was adjourned at 2:54 pm.

SIGNATURE:

Javier Banos, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary