

# **City of Miami**

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



## **Meeting Minutes**

**Tuesday, August 12, 2008**

**10:00 AM**

**Commission Chambers**

### **Civil Service Board**

*Miguel M. de la O, Chairperson  
William J. Scarola, Chief Examiner  
Jessica Angel-Capo, Board Member  
Mariano Cruz, Board Member  
Michael T. Dames, Board Member*

**PLEDGE OF ALLEGIANCE**

*The meeting was called to order at 10:18 A.M. The roll call for Board Members at the commencement of the meeting was as follows:*

**Present:** Chief Examiner Scarola, Chairperson de la O, Member Dames, Member Angel-Capo and Member Cruz

**A. APPROVING THE MINUTES OF:**

Regular Meeting of July 29, 2008.

*The Board entered a motion to APPROVE the minutes of the July 29, 2008 meeting which resulted as follows:*

**Motion by Chief Examiner Scarola, seconded by Member Cruz, to APPROVE. PASSED unanimously.**

**B. PERSONNEL MATTERS****C. MILITARY LEAVES OF ABSENCE**

- C.1 07-00189** Reginald Williams, Police Officer, requests active duty military leave without pay for 365 days from October 3, 2008 through October 9, 2009. Copy of Orders Attached. (DISCUSSION)

*The Board entered a motion to APPROVE Officer Reginald Williams' request for military leave which resulted as follows:*

**Motion by Chief Examiner Scarola, seconded by Member Angel-Capo, that this matter be APPROVED. PASSED unanimously.**

- C.2 08-00890** Hector Mirabile, Director, Department of Employee Relations, requests active duty training leave with pay from August 10, 2008 through August 24, 2008. Copy of Orders Attached. (NOTIFICATION)

**D. DISCIPLINARY MATTERS**

- D.1 06-00966** Copy of a Judgment from the City Manager concurring with the Chief of Police, in finding Vernell Reynolds, Police Officer, guilty as set forth in the disciplinary letter, and modifying her 240 hour suspension to a 120 hour suspension, effective May 21, 2006. The Board recommended a 20 hour forfeiture. (NOTIFICATION)
- D.2 08-00892** Notification of letter from Stephanie Grindell, Director, Department of Public Works, notifying Osian Cruz, Auto Equipment Operator II, Department of Public Works, of his termination, effective August 6, 2008. No appeal to date. (NOTIFICATION)
- D.3 08-00893** Notification of corrected letter from Stephanie Grindell, Director, Department of Public Works, notifying Osvaldo Munizaga, Labor Crew Leader II, Department of Public Works, of his 2-day suspension, effective August 7, 2008. No appeal to date. (NOTIFICATION)

- D.4 08-00894 Copy of a letter from Chief John F. Timoney, Director, Department of Police, notifying Alice Dunn, Typist Clerk II, of her 40-hour suspension, effective August 11, 2008 and copy of a letter from Osnat K. Rind, Attorney, on behalf of Alice Dunn, Police Officer, requesting a hearing of appeal relative to her disciplinary letter. A hearing will be scheduled in accordance with the Civil Service Rules and Regulations. (NOTIFICATION)

## E. GENERAL ITEMS

- E.1 06-02046 Copy of Findings of Fact concerning the appeal hearing on behalf of James Marshall Jr., Police Sergeant, relative to his 40-hour suspension, effective October 30, 2006. (DISCUSSION)

*Chairman de la O asked the department's representative if she had any objections to the proposed findings of fact.*

*Diana Vizcaino, Assistant City Attorney, responded that she objects to paragraph #4 which states, "Appellant relied on his subordinates to complete the missing reports and should not be faulted if the officers failed to timely submit the required reports to him." She went on to say that she does not recall this fact from the testimony presented and if it was heard, it was more of an opinion by Sgt. Marshall rather than an actual finding of fact. Assistant City Attorney Vizcaino stated that she would move to strike the portion of paragraph #4 which states, "and should not be faulted if the officers failed to timely submit the required reports to him."*

*Chairman de la O stated that he recalls this fact being brought out by more than one of the Board Members and if there is an opinion, he thinks this would be the opinion of the Board as to the issue of whether Sgt. Marshall should be faulted or not. He went on to say that if the Board Members based their vote on the language contained in paragraph #4, it should remain as written, but if not, it should be stricken.*

*Following discussion, the Chairman asked for a motion to strike the language from paragraph #4 that reads, "and should not be faulted if the officers failed to timely submit the required reports to him." Hearing none, the Chairman asked the department's attorney if she had any other objections.*

*Assistant City Attorney Vizcaino responded in the negative.*

*Chairman de la O asked if Sgt. Marshall was present.*

*The Executive Secretary responded in the negative. She went on to say that Sgt. Marshall was provided with a copy of the findings of fact and he did not advise of any objections to the report.*

*Following further discussion, the Board entered a motion to ADOPT the proposed findings of fact and conclusion of law, which resulted as follows:*

**Motion by Member Angel-Capo, seconded by Chief Examiner Scarola, that this matter be APPROVED. PASSED unanimously.**

*Following the adoption of the findings of fact, Sgt. Marshall arrived at approximately 10:48 a.m. Chairman de la O informed Sgt. Marshall that although the Board had already adopted the findings of fact, he would reopen discussion on this matter. He asked Sgt. Marshall if he had a chance to review the proposed findings of fact.*

*Sgt. Marshall responded in the affirmative.*

*Chairman de la O asked Sgt. Marshall if he has any objections to the findings of fact.*

*Sgt. Marshall responded in the affirmative. He went on to say that he would like to apologize for his lateness that was brought on by his involvement in a chase of a robbery suspect. Sgt. Marshall further stated that he has a problem with the Disobedience to Orders and Insubordination charges because he feels that they are the same and should be treated as one charge.*

*Chairman de la O stated that the Board voted on these charges so there is nothing that can be done at this point to drop either of the charges. Chairman de la O asked Sgt. Marshall if he had any other objections.*

*Sgt. Marshall responded in the negative.*

*No other discussion took place on this matter.*

**E.2 05-01450**

Copy of Findings of Fact concerning the appeal hearing on behalf of Priscilla Miller, Crime Scene Investigator, relative to her 30-hour forfeiture, effective June 8, 2005. (DISCUSSION)

*Chairman de la O asked the department's attorney if she had any objections to the findings of fact.*

*Assistant City Attorney Vizcaino responded that opposing counsel Rind submitted an e-mail dated August 8, 2008 proposing various revisions. She went on to say that she has no objections to the revision of paragraph 2, but she does object to the language in paragraph 3.*

*Chairman de la O asked Assistant City Attorney Vizcaino if she had an objection to changing "Officer Ramirez" that appears in paragraph #3 to "the unit".*

*Assistant City Attorney Vizcaino responded in the negative.*

*Chairman de la O asked Assistant City Attorney Vizcaino if he she had an objection to Attorney Rind's request to add the following language to paragraph #3: "Mr. Pratt, who was in the car with the Appellant at the time testified that he did not hear that part of the transmission either."*

*Assistant City Attorney Vizcaino responded in the affirmative. She went on to say that she has an objection to all of the remaining proposed revisions because it was testimony that was heard (as opposed to facts that the Board relied on in its decisions).*

*Chairman de la O stated that he would like to hear the objections one at a time and asked Assistant City Attorney Vizcaino to provide the basis for her objection to adding the language that opposing counsel requested to add to paragraph #3.*

*Assistant City Attorney Vizcaino responded that it was testimony that was heard, but she does not believe the Board heard any type of corroboration. She went on to say that based on the Chairman's comments, she would remind the Board that it was very clear that Mr. Pratt testified in favor of Ms. Miller and based on the Board's observations and Mr. Pratt's testimony, she does not think it was a fact.*

*Chairman de la O stated that the question is whether the Board Members voted based upon Mr. Pratt's testimony and he could say for himself that he did not, but the other*

Board Members may have. He went on to say that if any of the Board Members wish to add to paragraph #3, the sentence, "Mr. Pratt, who was in the car with the Appellant at the time testified that he did not hear that part of the transmission either." should make a motion to include this language. Hearing no motion, the Chairman moved to the next request.

Chairman de la O stated that Attorney Rind has requested that the following language be added to paragraph #3: "Ms. Bao said it was not uncommon for officers not to hear transmissions during the relevant time period." He asked the department's attorney to provide the basis for her objection.

Assistant City Attorney Vizcaino responded that there was no corroboration other than Ms. Bao's testimony. She went on to say that Ms. Bao is an employee who is no longer working in the Communications Unit, she had no independent knowledge of the facts before the Board at the time, and she had no conversations with Ms. Miller to determine whether or not Ms. Miller did hear the transmissions via the dispatched radio.

Chairman de la O stated that although he found it hard to believe (that Ms. Miller did not hear the complete radio transmission), he did give some credit to Ms. Bao's testimony. He went on to say that he relied on Ms. Bao's testimony, but the question is whether the Board relied on her testimony.

Following discussion, the Board entered a motion to add the sentence to paragraph #3 of the finding that reads, "Ms. Bao said it was not uncommon during the relevant time period for transmissions to not be heard by officers." The motion resulted as follows:

**Motion by Member Angel-Capo, seconded by Member Cruz, that this matter be APPROVED. PASSED unanimously.**

Chairman de la O stated that Attorney Rind has requested to add the following language to paragraph #5: "The Board will credit Ms. Miller's testimony in that regard given among other things, her supervisor's testimony that she is one of his best workers and given her unblemished and long service to the City." He asked opposing counsel if she has an objection to Attorney Rind's request.

Assistant City Attorney Vizcaino responded in the affirmative. She stated that she does not recall the Board saying that it gives Ms. Miller's testimony credit; however, she would have no objection to the sentence if it read, "Crime Scene Supervisor Lazaro Fernandez testified that Ms. Miller was a good employee based upon his personal experience.", but other than that she has an objection.

Chairman de la O stated that he definitely credited Ms. Miller's testimony that she did not hear the transmission based upon her reputation in and her history with the department, which he believes he said on the record. He asked if any other Board Member wished to say something on this matter.

Member Cruz stated that he and Member Scarola testified about the problems the police department experienced with the radios.

Following discussion, the Board entered a motion to add a sentence to paragraph #5 of the findings that would read, "The Board will credit Ms. Miller's testimony in that regard given among other things, her supervisor's testimony that she is one of his best workers and given her unblemished and long service to the City." The motion resulted as follows:

**Motion by Member Angel-Capo, seconded by Chief Examiner Scarola, to APPROVE. PASSED unanimously.**

Chairman de la O stated that the last request made by Attorney Rind is to add to paragraph #6, the sentence, "Ms. Miller's actions were consistent with established past practice."

Assistant City Attorney Vizcaino stated that she objects to including this language in the findings because the statement is too vague. She went on to say that she does not know which actions were being referred to and asked if "actions" could be referring to the fact that Ms. Miller arrived at the scene but did not process it or the fact that she went home sick on Christmas day two hours prior to her end of shift.

Attorney Rind stated that she is clearly referring to something that was the basis for her defense which was CSI Miller's arrival at the scene, having no victim at the scene, and leaving the scene.

The Board entered a motion to add to paragraph #6 the language, "Ms. Miller's actions were consistent with established past practice."

Under discussion, Member Dames stated that he faulted CSI Miller for failing to take the name of the person she spoke to while at the scene. He went on to say that CSI Miller has been with the department for many years so he thinks it was a mistake (that she did not obtain this information from the person at the scene who told her that the police came by and left the scene). Member Dames further stated that he does not think CSI Miller's actions were consistent with past practice.

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

**Motion by Chief Examiner Scarola, seconded by Member Angel-Capo, to APPROVE. PASSED by the following vote.**

**Aye:** Member Angel-Capo, Chief Examiner Scarola and Member Cruz

**No:** Chairperson de la O and Member Dames

Chairman de la O asked for a motion to APPROVE the proposed findings of fact which resulted as follows:

**Motion by Chief Examiner Scarola, seconded by Member Angel-Capo, to APPROVE. PASSED unanimously.**

**E.3 06-00673**

Correspondence from Kevin Jones, Assistant City Attorney, requesting clarification of the Board's policies as it relates to the hearing of appeal on behalf of Edward Lugo, Police Officer. (DISCUSSION)

Chairman de la O stated that he reviewed Assistant City Attorney Jones' e-mail to Ms. Mindingall and Special Counsel Everett, but he is not sure that he sees his complaint. He asked Assistant City Attorney Jones who is the tie-breaker he is referring to that Attorneys Rind and Cohen are communicating with.

Kevin Jones, Assistant City Attorney, responded that it is City Manager Pete Hernandez that they are communicating with. He went on to say that [this case that resulted] in a tie-vote would be sent to the City Manager to make whatever decision he felt was appropriate at that time. Assistant City Attorney Jones further stated that he would guess that the phrase "tie-breaker" is a little misleading to a certain extent, but he is not necessarily breaking a tie because there is a tie. He stated that in a traditional vote by the Board whether it is for or against the department, the City Manager has ultimate authority to do what he thinks is appropriate which may lead to future litigation when the department does not prevail. Assistant City Attorney Jones went on to say that in cases where the department does prevail, obviously the City Manager can take whatever steps

he deems necessary in these cases also.

Chairman de la O stated that he does not see any basis nor does he think the Board has jurisdiction to try to restrict the employee from trying to communicate with the City Manager about what he is going to do on cases before him.

Assistant City Attorney Jones stated that it was his understanding that the findings of fact still needed to be voted on by the Board. He went on to say that the Board may recall that there was a heated discussion over what should specifically happen with that tie-vote discussion that took place between Special Counsel Everett whose position was that the [decision in a tie-vote does not automatically favor the employee] and Attorney Rind's position was just the opposite. Assistant City Attorney Jones further stated that in his mind nothing had been concrete as far as the outcome of the case and the very next thing he learns is that Attorney Rind sent a letter to the City Manager advising him that if he does not agree with her position that there would be future litigation. He stated that it would be okay if there is no problem with [writing the City Manager before the Board has approved its findings of fact], but he would like to have some understanding on this matter.

Chairman de la O stated that as he understands the Rules, neither side is allowed to communicate with the Board once the matter is set for a hearing and is on the Board's docket, but the City Manager, as far as he knows is fair game. He went on to say that the City Manager does not have to listen to the employee, but as far as he understands it, the Board is going to send findings of fact and conclusions of law to the City Manager that says the Board had a tie vote. Chairman de la O further stated that it is not the Board's position to tell the City Manager what decision to take on the tie vote and whatever action the City Manager takes the employee will or will not appeal.

Assistant City Attorney Jones stated that as he understands it, when there is a tie-vote situation where the ultimate decision will go to the City Manager, either side can communicate with the City Manager at will.

Chairman de la O asked Attorney Cohen if he has a different understanding.

Ronald J. Cohen, Law Offices of Cohen & Rind, appeared before the Board and stated that they did not communicate directly with the City Manager instead they wrote to the Labor Relations Director. He went on to say that he was outraged when he received Assistant City Attorney Jones' memo and he came to the meeting when he learned that his request would be on today's agenda for Board discussion. Attorney Cohen further stated that Assistant City Attorney Jones' memo accused Attorney Rind of using a tactic for contacting the Labor Relations Director whom they have had carte blanche as representatives of the union to contact on a regular basis for the past 20 years. He stated that they have been circumspect in their use of this on Civil Service cases, but he thinks the Assistant City Attorneys continually talk to the City Manager and the Labor Relations Director and he thinks the Board should look into this matter to see what their conversations are with them. Attorney Cohen went on to say that the Board should ask the City Attorneys if they talk to the City Manager before, during, or after a Civil Service case and he doubts very much that this is the case. He further stated that the City Manager should be brought [before the Board] and asked who does he talk to when he makes judgments. Attorney Cohen stated that he does not see how [Assistant City Attorneys] could possibly claim attorney/client privilege, but then again they probably would. He went on to say that he does not think it is right that they should represent the City Manager and the department because they are two different people.

Chairman de la O informed Attorney Cohen that he was not going to allow him to continue because he was repeating himself.

Attorney Cohen responded that he wants to put on the record all that he has to say about this matter so he will move on. He went on to say that Assistant City Attorney Jones stated that the City Manager can do whatever he wants, but this is a complete, fundamental misunderstanding of the Civil Service System and the role of the City Manager. Attorney Cohen further stated that there were three findings of fact prepared by the Board in the cases of Officers Kevin McKinnon, Vernell Reynolds, and Paul Jean recently submitted to the City Manager and in each case he rejected the findings of fact. He stated that the City Manager sits where ever he sits, does not hear any [witness testimony] and says that the findings of fact are not good. He further stated that all three officers have one thing in common which is they are Black. Attorney Cohen went on to say that this law has been settled for over 50 years that the City Manager cannot reverse the findings of fact as long as there is competent and substantial evidence (for the Board to make Findings); however, the City Manager is reversing findings on a regular basis. Attorney Cohen stated that the City Manager cannot do whatever he wants because the law is very clear on what he can do. He went on to say that the Board needs to have the City Manager come and explain how he knows there was no competent, substantial evidence when he neither sat for the hearing nor read the transcripts. Attorney Cohen further stated that he has dealt with Civil Service Boards all over the state for the last 30 years and the way the City treats this Board and the Civil Service system is the lowest of the low. He stated that the City wants to use the personnel system to be vindictive, to get to people who are not on their team, and to bring in their friends and punish their enemies. Attorney Cohen went on to say that the Civil Service Board system is in place to protect employees; therefore, what the City is doing has to stop.

Assistant City Attorney Jones stated that despite all of the things that are non-issues, what is being discussed is a case that resulted in a tie. He went on to say that ever since he has represented cases before the Board, there has never been a tie vote. Assistant City Attorney Jones further stated that his understanding was the findings would be drawn up and sent to the City Manager, who would make whatever decision at that point. He stated that his only issue is pending the final finding of facts in this case, that neither side should be directing anyone to talk to the City Manager about this or any case. Assistant City Attorney Jones went on to say that if there is no policy that prohibits either side from talking to the City Manager about a case then that is fine and he will do likewise.

Chairman de la O stated that no judicial officer is in the role of giving advisory opinions except the Supreme Court. He went on to say that he is not going to tell Assistant City Attorney Jones whether it is right or wrong, but as he reads the Rules, the Board cannot be lobbied when there is a matter before it. Chairman de la O further stated that if anyone wants to know what the rules are with the City Manager, that person would have to ask the City Manager and he obviously is not going to drag the City Manager to a Board meeting because that simply would be putting the cart before the horse. He stated that the Board makes findings and recommendations, the City Manager makes whatever decision, and if either attorney does not like the decision the City Manager takes he/she can appeal his decision because that is how the system works.

Attorney Cohen stated that Attorney Rind should not be accused of tactics because it is wrong and she is owed an apology and that is why he is before the Board today. He went on to say that he is sick and tired that every time they request a document from [the attorneys who represent cases before the Civil Service Board], they withhold the documents.

Assistant City Attorney Jones stated that he is talking about a very specific issue in this case and the issue was that a letter was sent to Hector Mirabile (Employee Relations

Director) after there was a discussion about the law as it relate to tie votes of which he nor the Board's Special Counsel was copied on. He went on to say that Attorney Rind sent a letter three days after the hearing which was brought to his attention weeks later. Assistant City Attorney Jones further stated that he is not suggesting that the attorneys do not have the right to speak to whomever they want to, but in this particular context this was an issue that was still under debate by the Board. He stated that a copy of the letter was not sent to either of the parties; however, he thinks it would have been relevant for Attorney Rind to send them a copy of the letter or at least made them aware of the letter since she was threatening to sue if the outcome reached by the City Manager was not acceptable to her.

Chairman de la O stated that we've heard from everyone and we've gone far afield. He went on to the Findings of Fact in the Lugo case.

**No other relevant discussion took place on this particular matter.**

**E.4 06-00673**

Copy of Findings of Fact concerning the appeal hearing on behalf of Edward Lugo, Police Officer, relative to his 120 hour suspension, effective April 16, 2006. (DISCUSSION)

Chairman de la O asked the department's representative if he has any objections to the proposed findings of fact.

Assistant City Attorney Jones responded that he has no objection to the version prepared by Special Counsel Everett; however, he was not certain if Attorney Rind submitted findings.

Chairman de la O stated that he is only aware of the findings prepared by Special Counsel Everett. He asked Attorney Rind if she submitted written objections to the proposed findings.

Attorney Rind responded in the affirmative. She went on to say that she does not know who suggested to include the last sentence in paragraph #5, but she would ask that it be removed because she does not think it has relevance to the findings. Attorney Rind stated that she thought this was an issue that everyone agreed to as long as Officer Lugo's use of the City vehicle was in City of Miami boundaries.

Chairman de la O stated that was his recollection also, but he might be wrong. He asked if the department wished to keep the second sentence in paragraph #5 of the findings which states, "Officer Carr testified that his use was a violation and although similar violations take place all of the time, if caught you have to be willing to pay the price."

Assistant City Attorney Jones responded that the last sentence could be removed.

Attorney Rind stated that she has an objection to the sentence in paragraph 7B which states, "Appellant admitted that he talked to the arresting officers and that he engaged the complainants in a discussion." She went on to say that she does not think that Officer Lugo ever admitted that he engaged the Osorio brothers in a discussion.

Chairman de la O stated that he certainly agrees that there is a distinction in saying that "the Appellant admitted it" and "the Board found it." He asked the department representative if he disagrees with the distinction made by Attorney Rind.

Assistant City Attorney Jones responded that he disagrees to a certain extent. He went on to say that the Board may recall that Officer Lugo did not testify in his defense, but

the department referred to his transcript and introduced into evidence the transcript of Ana Vildarriel and the testimony of Officer Anderson who said that he left Officer Lugo in the presence of the Osorio brothers (complainants) and while he did not recall hearing the discussion and what took place, he knew that Officer Lugo's presence was agitating the complainants. He went on to say that he believes that in Officer Lugo's statement to Internal Affairs, he did indicate that the complainants asked him questions, he responded, and asked his own set of questions of the complainants.

Chairman de la O stated that he is agreeing with Assistant City Attorney Jones that there was evidence that Officer Lugo engaged in the discussion, but what Attorney Rind is saying is that the sentence in paragraph 7B makes it seem like Officer Lugo admitted to engaging conversation with the complainants and he does not believe there was ever any testimony presented that Officer Lugo admitted engaging in any discussion.

Assistant City Attorney Jones stated that Officer Lugo never specifically mentioned that he engaged in conversation with the suspects, but he believes it is an admission when Officer Lugo admitted to Internal Affairs that he had a discussion with the complainants.

Chairman de la O stated that he does not recall what the Internal Affairs statement said.

Attorney Rind stated that the reason the Chairman does not recall is because Officer Lugo's statement to Internal Affairs was never introduced into evidence. She went on to say that she thinks the extent of the conversation is what she stated in 7A, "Appellant did not engage the complainants; rather, the complainants initiated a conversation with the Appellant by asking him a question."

Following discussion, the Board entered a motion to change the second sentence in paragraph 7B to read, "Appellant admitted that he talked to the arresting officers. These two Board Members find that he engaged the complainants in a discussion." The motion resulted as follows:

**Motion by Chief Examiner Scarola, seconded by Member Dames, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Chairperson de la O, Member Dames, Member Angel-Capo and Chief Examiner Scarola

**Abstain:** Member Cruz

Attorney Rind stated that for the purpose of consistency, she would ask that the rule violation of Civil Service Rule 14.2(e) - Violated Lawful Order, that appears on page 2 of the findings is also included on page 5.

Special Counsel Everett stated that she would agree that the violations listed in the Conclusions of Law should be consistent with the paragraph that appears before the findings of fact section of the report.

Following discussion, the Board entered a motion to amend the charges on page 5 under the Conclusion of Law so that it mirrors the language that also appears on page 2 to read, "Departmental Order 8, Chapter 7, Section 7.4.12 - Personal Use; and Civil Service Rules & Regulations 14.2(e) - Violated Lawful Order and" The motion resulted as follows:

**Motion by Chief Examiner Scarola, seconded by Member Dames, to APPROVE. PASSED by the following vote.**

**Aye:** Chairperson de la O, Member Dames, Member Angel-Capo and Chief Examiner Scarola

**Abstain:** Member Cruz

*The Board entered a motion to ADOPT the proposed findings of fact which resulted as follows:*

**Motion by Chief Examiner Scarola, seconded by Member Dames, to APPROVE.**

**PASSED by the following vote.**

**Aye:** Chairperson de la O, Member Dames, Member Angel-Capo and Chief Examiner Scarola

**Abstain:** Member Cruz

**NOTE: Member Cruz abstained from voting because he was not present when this case was heard by the Board.**

## F. REPORTS

F.1 08-00018 Pending Hearings as of August 12, 2008. (NOTIFICATION)

## G. REQUESTS FOR HEARINGS

## H. TODAY'S HEARINGS

H.1 05-01281 Grievance hearing pursuant to Rule 16.1 Abuse of Power and 16.2 Complaint by Employee, on behalf of Khalil Mangabadi, Engineer I.

*The Board entered into the scheduled hearing of Khalil Mangabadi.*

*Osnat K. Rind, Attorney at Law, represented the Grievant.*

*Diana Vizcaino, Assistant City Attorney, represented the Department.*

*The Rule of Witnesses was invoked and all witnesses were sworn-in individually.*

*Opening statements were made by Attorney Rind. Assistant City Attorney Vizcaino reserved opening statements.*

*Witnesses for the Grievant appeared in the following order:*

1. *Khalil Mangabadi, Engineer I, City of Miami, testified on his own behalf.*

*Questions were posed by Members Cruz, Angel-Capo, and Scarola during the testimony of witness Mangabadi.*

2. *Charles P. Cox, President, AFSCME-Local 1907.*

*Questions were posed by Members Cruz and Dames during the testimony of witness Cox.*

3. *Scott Pritchard, Engineering Technician IV/Shop Steward, City of Miami (Retired)*

*The Grievant rested his case.*

*Witnesses for the Department appeared in the following order:*

1. *Joni Harris, Employment Relations Manager, City of Miami.*

*Questions were posed by all Board Members during the testimony of witness Harris.*

*Chairman de la O stated that the Board is not going to finish Mr. Mangabadi's case today; therefore, he does not see the reason of starting with Director Grindell's testimony. He went on to say that the Board will have to vacate the room at 4:30 and he would hate to start testimony of a witness and then not finish. Chairman de la O further stated that if everyone agrees with his suggestion, he would ask for a motion to adjourn.*

*The Executive Secretary asked the Chairman if he wanted her to carry Mr. Mangabadi's hearing over to the meeting of August 26, 2008, which is the Board's next meeting.*

*Chairman de la O stated that the sooner the hearing is rescheduled, the better.*

*Member Dames stated that he will be attending a convention so he will not be available for the August 26 meeting.*

*Assistant City Attorney Vizcaino stated that Ms. Grindell advised that she also will not be available on August 26 because she will be on vacation.*

*Chairman de la O stated that the hearing would have to be rescheduled to the September 9, 2008 meeting because that is when it appears that everyone will be available.*

#### **HEARING TO BE CONTINUED**

- H.2      06-01632**      Hearing of appeal on behalf of Fignole P. Lubin, Police Officer, relative to his 40-hour forfeiture, effective August 29, 2006.
- Due to time constraints, the Board was unable to hear this case; therefore, the Board entered a motion to CONTINUE Officer Fignole's case and charge the continuance to the Board which resulted as follows:*
- Motion by Chief Examiner Scarola, seconded by Member Angel-Capo, that this matter be CONTINUED. PASSED unanimously.**
- H.3      06-00672**      Hearing of appeal on behalf of Teresa Borkowski, Police Sergeant, relative to her 10-hour suspension, effective April 4, 2006.
- Due to time constraints, the Board was unable to hear this case; therefore, the Board entered a motion to CONTINUE Officer Borkowski's case and charge the continuance to the Board which resulted as follows:*
- Motion by Chief Examiner Scarola, seconded by Member Dames, that this matter be CONTINUED. PASSED unanimously.**
- H.4      06-00965**      Hearing of appeal on behalf of Teresa Borkowski, Police Sergeant, relative to her 10-hour suspension, effective May 24, 2006.
- Due to time constraints, the Board was unable to hear this case; therefore, the Board entered a motion to CONTINUE Officer Borkowski's case and charge the continuance to the Board which resulted as follows:*
- Motion by Chief Examiner Scarola, seconded by Member Dames, that this matter be CONTINUED. PASSED unanimously.**
- H.5      06-01096**      Hearing of appeal on behalf of Javier Gonzalez, Police Officer, relative to his

20-hour suspension, effective June 1, 2006.

*Due to time constraints, the Board was unable to hear this case; therefore, the Board entered a motion to CONTINUE Officer Gonzalez's case and charge the continuance to the Board which resulted as follows:*

**Motion by Member Angel-Capo, seconded by Member Dames, that this matter be CONTINUED. PASSED unanimously.**

**ADJOURNMENT:**

*The Chairman called for a motion to ADJOURN.*

**Motion by Member Angel-Capo, seconded by Member Cruz, to APPROVE. PASSED unanimously.**

*The meeting adjourned at 3:59 p.m. Breaks were taken at 11:02-11:13 a.m., 12:17-12:35 p.m., and 1:05-2:00 p.m.*

**SIGNATURE:**

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**Miguel M. de la O, Chairperson**

**ATTEST:**

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**Tishria L. Mindingall, Executive Secretary**