

City of Miami

*City Hall
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Meeting Minutes

Tuesday, October 7, 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 10:08 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 September 23, 2008.

The Board entered a motion to APPROVE the minutes of the September 23, 2008 meeting which resulted as follows:

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

B. PERSONNEL MATTERS

- B.1 08-01192** Request from Earl Spratling III, to be placed on the re-employment list for Waste Equipment Operator, pursuant to Civil Service Rule 12, Sec. 12.4, Resignations. (DISCUSSION)

The Board entered a motion to APPROVE the Department's request to place Earl Spratling's name on the re-employment list for Waste Equipment Operator which 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, Chief Examiner Scarola and Member Cruz

- B.2 08-01193** Copy of a memorandum from Hector Mirabile, Ph.D., Director, Department of Employee Relations, notifying Roy Hamlin, Assistant Fire Chief, Department of Fire-Rescue of his return to former classification. Roy Hamlin is being rolled back to Chief Fire Officer, effective August 17, 2008. (NOTIFICATION)

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 - CANCELLED. (NOTIFICATION)
Request previously approved 8/12/08; however Orders were cancelled.

D. DISCIPLINARY MATTERS

- D.1 05-01450** Copy of a Judgment from the City Manager concurring with the Board in finding Priscilla Miller, Crime Scene Investigator, not guilty of all the charges against her as set forth in the disciplinary letter, effective June 8, 2005, thereby reversing the Police Chief's decision. (NOTIFICATION)

- D.2 06-02046 Copy of a Judgment from the City Manager concurring with the Chief of Police in finding James Marshall, Police Sergeant, guilty of all the charges as set forth in the disciplinary letter, effective October 30, 2006 and ordering that his 40-hour suspension be modified to a 20-hour suspension. The Board recommended a reprimand only. (NOTIFICATION)
- D.3 08-00120 Copy of a Judgment from the City Manager concurring with the Board in finding Anton Forbes, Police Officer, not guilty of all the charges as set forth in the disciplinary letter, effective January 11, 2008, thereby reversing the Police Chief's decision. (NOTIFICATION)
- D.4 08-01191 Copy of a letter from Chief John F. Timoney, Director, Department of Police, notifying Katina Rush, Communications Assistant, of her 40-hour suspension, effective September 26, 2008. No appeal to date. (NOTIFICATION)
- D.5 08-01194 Copy of a letter from Chief John F. Timoney, Director, Department of Police, notifying Tika Jones, Police Officer, of her 10-hour suspension, effective September 23, 2008. No appeal to date. (NOTIFICATION)
- D.6 08-01195 Copy of a letter from Chief John F. Timoney, Director, Department of Police, notifying Miguel Leon, Police Officer, of his 10-hour suspension, effective September 3, 2008. No appeal to date. (NOTIFICATION)
- D.7 08-01196 Copy of a letter from Chief John F. Timoney, Director, Department of Police, notifying Nestor Garcia, Police Officer, of his 5-hour forfeiture, effective September 11, 2008. No appeal to date. (NOTIFICATION)

E. GENERAL ITEMS

- E.1 05-01281 Copy of the Report concerning the investigation hearing on behalf of Khalil Mangabadi, Engineer I, Department of Public Works, pursuant to Civil Service Rule 16.1, Abuse of Power. (DISCUSSION)

Deferred from the meeting of September 23, 2008.

Chairman de la O stated that in looking at both sets of proposed changes to the Findings of Fact, it appeared to him that the changes to the Rule 16.1 report are reciprocated in the Rule 16.2 report and asked was this correct.

Diana Vizcaino, Assistant City Attorney, responded in the affirmative.

Chairman de la O stated that if there is no objection, he thinks the reports should be considered together since a change to one report would mean a change to both reports. He went on to say that to set the table for the Board Members as to the reports submitted, inside the 16.1 and 16.2 reports there is verbiage that is bolded, underlined, and struck-through. Chairman de la O further stated that the report is what Special Counsel Everett originally submitted and the additions and deletions in the reports are changes that have been proposed by the employee or the department. He stated that if the verbiage is italicized, this means that the department has an objection to that language being added in the report, but if the verbiage is underlined or stricken-through and is not italicized or in bold lettering, there is no objection by either side. Chairman de

la O went on to say that the only thing the Board is going to do is consider those sections of the reports where the verbiage is either bolded or italicized.

Chairman de la O referred the Board to the verbiage on page 2, finding #2, of the Rule 16.1 report under the subheading, RESULTS OF INVESTIGATION, which states, "Ms. Grindell, the Director of the Public Works Department, works and is friends with Mr. Beylin's wife." He went on to say that the verbiage is underlined and italicized which means that the employee wishes to add this language and the department objects to including this language in the report. Chairman de la O asked Attorney Rind to tell the Board why she wishes to include this language.

Attorney Rind responded that this was clearly a piece of evidence that Mr. Mangabadi testified to and as a matter of fact, she recalls that it was not rebutted by Ms. Grindell and that she commented on this fact as well as the Board during its deliberations.

Chairman de la O asked for the Department's position on the reason it feels this language should not be included in the report.

Assistant City Attorney Vizcaino responded that this fact was not in evidence, but an allegation made by Mr. Mangabadi, so there was nothing to rebut. She went on to say that if there is nothing to corroborate, it is just a simple allegation that Ms. Grindell and Mr. Beylin's wife were friends. Assistant City Attorney Vizcaino further stated that she specifically recalls asking Mr. Mangabadi questions under cross-examination such as, how did he know that they were friends, did he see them going out after hours together, and Mr. Mangabadi's response to those questions was no. She stated that it was Mr. Mangabadi's assumption, and she believes he conceded on the record that it was an assumption on his part that Ms. Grindell and Mr. Beylin's wife were friends.

Attorney Rind stated that she does not think what Attorney Vizcaino related to the Board is completely accurate. She went on to say that Mr. Mangabadi stated that he saw Ms. Grindell and Mr. Beylin's wife together and also saw them eat lunch together and that Ms. Grindell certainly had the opportunity to get up and say this was not the relationship she had with Mr. Beylin's wife and that it was not part of her consideration to choose Mr. Beylin for the job, but she did not do so.

Chairman de la O stated that his recollection is that Mr. Mangabadi did testify that he saw Ms. Grindell and Mr. Beylin's wife together, but he did not hear him say that they had lunch together, but he certainly knows that Ms. Grindell testified and she did not rebut this claim and it would have been very easy for her to do so if it was not true. He went on to say that the question is did the Board rely upon that testimony as one of its findings and if it is a finding the Board wants to adopt.

Following discussion, the Board entered a motion to add the sentence, "Ms. Grindell, the Director of the Public Works Department, works and is friends with Mr. Beylin's wife." at the end of finding #2, page 2, under the subheading, RESULTS OF INVESTIGATION, which resulted as follows:

Motion by Member Angel-Capo, seconded by Member Cruz, that this matter be APPROVED. PASSED by the following vote.

Aye: Chairperson de la O, Member Angel-Capo and Member Cruz

No: Member Dames and Chief Examiner Scarola

Attorney Rind stated that there is another word, "accredited" that was italicized in the 16.2 report but not in the 16.1 report.

Assistant City Attorney Vizcaino stated that she thinks the Board addressed this issue

the last time this matter was discussed. She went on to say that [ABET] is an accreditation and not a certification.

Chairman de la O stated that since there are some differences in the two reports, he would prefer to deal with the Rule 16.1 report first. He went on to advise the Board that Attorney Rind wishes to strike the following sentence from the findings that the department has requested remain: "When only three persons were pre-screened and determined to meet the requirements for the position in response to the original posting." that is found on page 2, finding #3, first sentence.

Attorney Rind stated that the reason she objects to leaving this sentence in the findings is because she recalls that the Board had a problem with the fact that the department alleged, although she had not been given the e-mail, that [the preliminary review] was a motivation [to change the ABET accreditation requirement] and she also recalls the Chairman's comment when he said he did not understand why three [candidates] would not be enough [to interview in this case], when there was another matter on that same day in which one person qualified for a position and the department had to take that one person. She went on to say that if the testimony came out that way, she does not think it was credible. Attorney Rind further stated that it is part of what she originally objected to at the beginning with the proposals in that they are written in a manner that if one were to read straight through would have a hard time figuring out why persons were upset about what happened.

Chairman de la O asked for the department's position on this proposal.

Assistant City Attorney Vizcaino stated that most of the language in bold was not only prepared by Special Counsel Everett, but it was evidence and not just testimony. She went on to say that witnesses Joni Harris, Ricardo Martinez, and she believes Terrella Johnson testified to this fact and opposing counsel wants to pick and choose which facts were in evidence to include in the findings.

Chairman de la O stated that he recalls that the testimony came out in a contradictory way because at first the Board was told that the number of applicants were not tied in any way to the number of applicants who qualified under the original posting and then the Board learned that was not exactly right. He went on to say that he thinks the Board learned that the department knew that there were only three qualified applicants and therefore a change was requested, but he needs the Board's help to recall exactly how the testimony came out. Chairman de la O further stated that he definitely recalls the Board was told that the fact that Ms. Grindell asked for the audit and the accreditation to be removed as a requirement had nothing to do with how many people qualified and then an e-mail came out stating that it was just the opposite.

Attorney Rind stated that is not exactly how it was. She went on to say that the e-mail, which is not in evidence, informed Ms. Grindell that three applicants were deemed eligible and she had the option of changing certain things (i.e. accreditation, etc.), but there was nothing in the record that said that was her motivation or she changed it because of that. Attorney Rind further stated that she and her client do not believe that the evidence or the testimony as a whole showed that this was her motivation in changing the accreditation and in fact, there is another motivation that is stated later in the findings that indicates Ms. Grindell really wanted to skew the promotional process.

Chairman de la O asked Attorney Rind if what she is objecting to is attributing a motivation for removing the accreditation as a requirement to only three persons qualifying. Attorney Rind responded in the affirmative.

Chairman de la O asked Assistant City Attorney Vizcaino if it is the department's position

that Ms. Grindell's motivation to change the accreditation requirement was due to there being only three persons who qualified for the position.

Assistant City Attorney Vizcaino responded that she believes Ms. Joni Harris' testimony was that one of the reasons the job announcement was posted a second time was because the requirements were changed from there being very strict requirements to [the ABET accreditation] being highly desirable and as a result of that change, the recruitment was open to attract a wider pool of applicants. She went on to say that she believes paragraph #3 is accurate because there was not just testimony presented but she believes documents were entered into evidence to corroborate this matter.

Chairman de la O stated that the question for the Board is did it find the motivation for removing ABET Accreditation as a requirement was because there were only three people that qualified or according to Attorney Rind it was because Ms. Grindell removed the requirement to get her preferred candidate on the eligible list.

Member Dames stated that he believes Ms. Grindell changed the requirements so that she could have a wider pool of applicants to choose from.

Chairman de la O asked Member Dames why Ms. Grindell wanted to have a larger pool of applicants.

Member Dames responded that he gave Ms. Grindell the benefit of the doubt. He went on to say that he believes she changed the requirements because only three persons would have qualified.

Following discussion, the Board entered a motion to remove the sentence, "When only three persons were pre-screened and determined to meet the requirements for the position in response to the original posting." that is found on page 2, finding #3, first sentence, which resulted as follows:

Motion by Member Angel-Capo that this matter be APPROVED. 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 stated that also in finding #3 he knows the department is objecting to the word "accredited" but he does not know why the department's attorney is objecting to using the word "certification".

Assistant City Attorney Vizcaino responded that she is objecting because ABET is not a certification but an accreditation.

Attorney Rind responded that she has no objection to changing "certification" to "accreditation."

Chairman de la O stated that since there is no longer an objection, the word "certification" will be changed to "accreditation." He then referred the Board to finding #4 on page 3, second sentence which begins, "Mr. Mangabadi has been a city employee since the mid 80's."

The Executive Secretary stated that ABET refers to the institution and not the person.

Chairman de la O stated that being the case, the third sentence in finding #4 should read, "He had graduated from an ABET certified engineering program."

Assistant City Attorney Vizcaino interjected and stated that the Board might recall her objection was that Mr. Mangabadi did not receive an ABET certification because he graduated from Florida International University (FIU) in 1981 and FIU did not receive its accreditation until 1987.

Chairman de la O stated that he recalls the testimony was contested and muddled so he is not sure if FIU was or was not accredited, but he can definitely say there was some doubt cast on whether it happened or not. He went on to say that the department objects to adding the sentence, "He had graduated from an ABET certified engineering program." because FIU did not have an ABET accredited program at that time.

Assistant City Attorney Vizcaino stated that perhaps the Board would consider a quasi-judicial review since she has a report from FIU which indicates when FIU received its ABET accreditation which was in 1987. She went on to say that she could pass the document around for each Board Member to review before voting on this issue.

Attorney Rind stated that the document is not in evidence. She went on to say that the department had the book at the time of the hearing, but failed to introduce the document into evidence. Attorney Rind further stated that Mr. Mangabadi testified during direct examination and in his rebuttal that he received his degree from the accredited program.

Chairman de la O stated that at the end of the day he does not think it matters one way or the other because Mr. Mangabadi was not excluded and that was not the reason the Board made its decision, but nevertheless, the Board will vote on the matter since it was contested.

Member Cruz asked if Mr. Mangabadi was or was not working as an Engineer.

Chairman de la O responded that he did not know.

Following discussion, the Board entered a motion to add the sentence, "He had graduated from an ABET certified engineering program." to finding #4 which resulted as follows:

Motion by Member Cruz, seconded by Member Angel-Capo, that this matter be APPROVED. FAILED by the following vote.

Aye: Member Angel-Capo and Member Cruz

No: Chairperson de la O, Member Dames and Chief Examiner Scarola

Chairman de la O stated that as a result of the FAILED motion, the sentence, "He had graduated from an ABET certified engineering program." will not be added to finding #4. He went on to say that the department has objected to adding the sentence, "Mr. Mangabadi even trained Mr. Beylin." at the end of finding #4. He asked the department's attorney to relate to the Board why she objects to adding this sentence.

Assistant City Attorney Vizcaino stated that she recalls during cross-examination she asked Mr. Mangabadi to tell her how he trained Mr. Beylin and he conceded that he only trained him when it came to City policies. She went on to say that if the Board wants to add that Mr. Mangabadi trained Mr. Beylin on City policies she would have no objection, but as far as training Mr. Beylin, the language is very broad and vague. Assistant City Attorney Vizcaino further stated that she thinks it was very clear on cross-examination that Mr. Mangabadi conceded that he did not train Mr. Beylin on how to perform the functions of a Civil Engineer I.

Chairman de la O asked for Attorney Rind's position on this matter.

Attorney Rind responded that she does know that Mr. Mangabadi testified that he trained Mr. Beylin, but she does not have the recollection if that is the nature of the training that he testified to.

Following discussion, the Chairman called for a motion to add the sentence, "Mr. Mangabadi even trained Mr. Beylin." to the end of finding #4. Hearing no motion, the Chairman stated that the sentence would not be added. Chairman de la O referred the Board to finding #5, third sentence which contains the word "veteran"

After hearing Attorney Rind's explanation about the word "veteran" as it related to who she was making reference, Assistant City Attorney Vizcaino withdrew her objection thereby agreeing that the sentence, "The other City employee on the A Band, a veteran, had less seniority than Mr. Beylin but was required to be selected for the Engineering II position due to veteran status." is to remain as finding #5, but without the word, "veteran".

Chairman de la O stated that Assistant City Attorney Vizcaino objects to adding the two sentences in finding #5 that begins, "The evidence presented at the hearing showed that Mr. Beylin misrepresented The misrepresentation arguably disqualified him from the position under Section 40-78 of the City's Code of Ordinances." He asked the department's attorney to explain her position.

Assistant City Attorney Vizcaino responded that she has the same objection that she raised at the time of the hearing which is, these are allegations that were not only relevant to the grievance that the Board heard, but they are severe accusations. She went on to say that if the Board allows this proposed finding to go forward and become a final judgement, the Board is conceding that a City employee lied in his application particularly since there was no corroboration, but allegations made by opposing counsel and Mr. Mangabadi.

Chairman de la O stated that what he does not hear the department saying is that it is not true instead what he is hearing is the department is asking the Board not to make a finding.

Assistant City Attorney Vizcaino stated that it was not true and she is not sure if the Board was aware that Mr. Beylin was willing to testify to the fact that he did not lie on his application, but he was overseas and due to the time difference he was unable to testify telephonically.

Member Angel-Capo stated that she recalls asking Ms. Joni Harris if she would have known that Mr. Beylin had incorrect information in his application would he have been hired and her response was no. She went on to say that she recalls Charlie Cox, AFSCME Union President, testifying that Mr. Beylin was being paid at a range 29 prior to being promoted.

Attorney Rind stated that the idea there was no evidence is wrong. She went on to say that this is not a personal thing against Mr. Beylin and that is the reason she drafted the verbiage to say that it is an arguable disqualification, but clearly the evidence was not rebutted in this regard on both counts.

Member Dames stated that he recalls Member Angel-Capo passionately arguing this matter. He went on to say that he did not see the information [years of service] in Mr. Beylin's application because he may have been studying something else; however, he does recall that the issue of misrepresentation recorded in Mr. Beylin's application came up in discussion several times but it was not disputed as far as he can recall.

Following discussion, the Board entered a motion to include the sentences, "The evidence presented at the hearing showed that Mr. Beylin misrepresented The misrepresentation arguably disqualified him from the position under Section 40-78 of the City's Code of Ordinances." to finding #5 which resulted as follows:

Motion by Member Angel-Capo, seconded by Member Cruz, that this matter be APPROVED. PASSED by the following vote.

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

Chairman de la O directed the Board's attention to the following sentences cited in finding #5 which begins, "It was also established at the hearing that Mr. Beylin was promoted to a 29A The department provided no explanation for the October promotion." He asked for the department's position on Attorney Rind's request to add these sentences to finding #5.

Assistant City Attorney Vizcaino responded that she objects because the information is not accurate. She went on to say that first of all, Mr. Beylin was not a Public Works employee at that time and that she did not rebut this issue because there was no need to do so. Assistant City Attorney Vizcaino further stated that opposing counsel could have asked about this matter during cross-examination, but she failed to do so.

Attorney Rind responded that the City's evidence showed that Mr. Beylin was placed in a 29A position with no explanation by the City.

The Executive Secretary stated that for the edification of everyone present, there may have been a misreading of the employee history. She went on to say that Mr. Cox may remember there was an increase for AFSCME employees that dates back to October 2004 and that this increase was not granted until after Mr. Beylin was appointed to the position.

Attorney Rind stated that is not what she is talking about. She went on to say that there was another period of time when there was a grievance and at that time, the person would not have been promoted to a range 29A but would have received an increase in pay.

The Executive Secretary responded that the pay increase was effective in 2004 and that is why it looks like Mr. Beylin was appointed to the position in 2004; however, if the Board were to look at the input date, it indicates he was appointed in 2005.

Attorney Rind stated that the record clearly indicates that in October 2004 Mr. Beylin was in a 29A position and how he got to this position, she does not know because the City did not put on any evidence.

Assistant City Attorney Vizcaino stated that she may not have put this document into evidence, but opposing counsel did, which is Employee Exhibit #15. She went on to say that on the second page of the document, it indicates that there was a City-wide across-the-board increase and Mr. Ricardo Martinez testified to this fact.

Attorney Rind stated that when an employee receives an across-the-board increase, the grade goes with the classification, but their classification does not change.

The Executive Secretary responded that because the employee history goes back in chronological order that is why it looks as if Mr. Beylin was appointed in 2004, but if the Board Members were to look at the input date [of the pay increase] they would see that Mr. Beylin was appointed after that input date. She went on to say that anyone who was appointed after the input date, their history would look as though they received an

increase before the appointment, but the appointment actually happened afterwards.

Attorney Rind stated that those sentences are not important; therefore she withdraws her request to add these sentences into finding #5.

Following Attorney Rind's withdrawal, Chairman de la O asked both attorneys if they object to adding to finding #5, the sentences, "Mr. Beylin was ultimately selected by Ms. Grindell for the Engineering II position. Mr. Beylin would not have been eligible under the original requirements for the position." and both attorneys responded in the negative.

Chairman de la O directed the Board's attention to finding #7.

Assistant City Attorney Vizcaino stated that she is proposing to add to finding #7 the words "testified he" to the first sentence and "he further testified" at the beginning of the second sentence.

Chairman de la O asked Attorney Rind if she objects to adding these words.

Attorney Rind responded that if it is intended for the purpose of implying that the Board does not agree with the finding, she would then have an objection. She went on to say that Mr. Mangabadi clearly testified to this fact and it was a finding by the Board so she does not want it to be confused in that manner.

Assistant City Attorney Vizcaino stated that for purposes of clarity, that is what Mr. Mangabadi testified to.

Chairman de la O stated that he does not agree. He went on to say that when the Board does not say that about every bit of testimony and then you say it about one piece of testimony, it sounds like the Board does not necessarily accept that or it is like saying someone alleged something happened. For clarification purposes, Chairman de la O stated that Attorney Vizcaino is asking that it be included for clarity and not to cast out on whether Mr. Mangabadi approached [Ms. Grindell].

Assistant City Attorney Vizcaino stated that she does cast out because she heard conflicting evidence in that Mr. Mangabadi used particular words, Ms. Grindell used other words, and Ms. Harris alleged that other words were spoken.

Chairman de la O asked Attorney Vizcaino if she would like to use the words, "Mr. Mangabadi testified he approached Ms. Grindell" and asked if anyone else wished to add those words.

Member Cruz asked what other word could be used instead the word "testify".

Chairman de la O responded that no other words have to be added or the Board could vote to include the words proposed by the department. He called for a motion to include the proposed language submitted by the department. After hearing none, the Chairman stated this verbiage would not be added to finding #7. Chairman de la O asked if anyone wished to make a motion to include the words, "He further testified" to the beginning of the second sentence in finding #7. Upon hearing none, the Chairman stated that this verbiage would not be added. Chairman de la O directed the Board's attention to finding #8, for which Attorney Rind proposes to add the sentence, "Ms. Grindell's testimony was not credible."

Following discussion, the Board entered a motion to include the language, "Ms. Grindell's testimony was not credible." as the second sentence in finding #8 which resulted as follows:

Motion by Member Angel-Capo, seconded by Member Dames, that this matter be APPROVED. PASSED by the following vote.

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

Chairman de la O directed the Board's attention to the fourth sentence in finding #8 and stated that the employee is proposing to add the following language which states, "In her appearance before the board, Joni Harris supported Mr. Mangabadi's version of the events when she stated that Ms. Grindell told her that she (Ms. Grindell) did not select Mr. Mangabadi for an interview because someone told her that he was a difficult employee. The Board finds that the statements made by Ms. Grindell to Mr. Mangabadi were a made up excuse for not selecting him for an interview."

Assistant City Attorney Vizcaino stated that the City's position is she does not recall that being Ms. Harris' testimony and that her testimony did not support Mr. Mangabadi's version. She went on to say that Ms. Harris may have said something similar but she did not use those exact words. Assistant City Attorney Vizcaino further stated that she has a problem with the words "made up excuse" that is used in the last sentence of finding #8.

Chairman de la O asked Assistant City Attorney Vizcaino would she have an objection if the wording, "Joni Harris supported Mr. Mangabadi's version of the events" was removed.

Assistant City Attorney Vizcaino responded in the negative.

Attorney Rind stated that she would ask that it be left in because the Board may recall Ms. Grindell testifying that there were a lot of reasons why she selected other people and she had blown-up charts and it was her understanding the Board rejected those as her stated reasons for making her decision. She went on to say that when she questioned Ms. Harris, she responded that Ms. Grindell told her that somebody told her that Mr. Mangabadi was a difficult employee.

Chairman de la O stated that the department is not disputing what Ms. Grindell told Ms. Harris. He went on to say the question is whether the Board wants to add the phrase, "supported Mr. Mangabadi's version of the events" and asked if anyone wished to make this motion.

Following discussion, Member Angel-Capo made a motion to add the phrase, "supported Mr. Mangabadi's version of the events"; however, the motion DIED FOR LACK OF A SECOND.

Referring to finding #8, the last sentence, Chairman de la O stated that the department has objected to calling this a "made up excuse" and the employee's position is if this phrase, "made-up excuse" is removed, the sentence would make no sense and he agrees.

Assistant City Attorney Vizcaino suggested to delete the words "made up" and change the sentence to read, "Mr. Mangabadi was an excuse for not selecting him for an interview."

Chairman de la O asked Attorney Vizcaino if she was asking to change the sentence to read, "The statements were an excuse for not selecting Mr. Mangabadi" as opposed to "The statements were a made up excuse..."

Assistant City Attorney Vizcaino responded in the affirmative.

Following discussion, the Board entered a motion to include the words "made up in the last sentence in finding #8 so that the sentence reads, "The Board finds that the statements made by Ms. Grindell to Mr. Mangabadi were a made up excuse for not selecting him for an interview. The motion resulted as follows:

Motion by Member Dames, seconded by Member Cruz, that this matter be APPROVED. PASSED by the following vote.

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

Chairman de la O stated that finding #9 is a new finding that was proposed by Attorney Rind on behalf of the employee. He went on to say that he also has the department's version and asked Assistant City Attorney Vizcaino to explain to him the bold versus the italicized words that are cited in her version.

Assistant City Attorney Vizcaino responded that any language in bold is what she would like included in the findings and any italicized language means that she objects to the language opposing counsel wishes to add in the findings.

Chairman de la O stated that since both attorneys have a different version of finding #9, he would ask that the Board review them and decide which version or neither version to include as a finding.

Assistant City Attorney Vizcaino stated that finding #9 is the same for the 16.1 and 16.2 reports.

Member Angel-Capo stated that she was in favor of adopting the employee's version, but with some changes. She referred the Board to the third line and suggested that the word "eliminated" be changed to "eliminating" and the phrase "Immediately upon being hired" be changed to "On the same day".

Following discussion, the Board entered a motion to include the employee's version of finding #9 and to change the word "eliminated" to "eliminating" and to change the phrase, "Immediately upon being hired," that is found in the 6th line on page 5 to "On the same day,". The motion resulted as follows:

Under discussion, Member Cruz stated that this is a clear case of nepotism, conflict of interest and ethics.

Assistant City Attorney Vizcaino stated that in response to Member Cruz' comments about nepotism, she thinks the testimony was clear that Mr. Justin Schofield was not Ms. Grindell's step-son at the time he was hired.

Chairman de la O stated that he thinks that testimony is clear.

Member Dames stated that the department included in its finding #9 that "Ms. Grindell testified that she preferred Simon Shuler to be promoted to Engineer II." He went on to say that it is a fact that Ms. Grindell did make that statement.

Chairman de la O asked Member Dames if he wished to propose an amendment to the motion on the floor.

Member Dames responded in the affirmative.

Chairman de la O stated that the amendment would be to add to finding #9 the sentence, "In fact Ms. Grindell testified that she preferred Simon Shuler to be promoted

to the Engineer II position." and add it after the phrase, "someone she knew and liked", which is found in the third line on page 5.

Following discussion, the Board entered a motion to adopt the amendment to finding #9 which resulted as follows:

Motion by Member Dames, seconded by Member Cruz, that this matter be APPROVED. PASSED by the following vote.

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

The Board entered a motion to include the employee's version of finding #9 inclusive of the amendment which resulted as follows:

Motion by Member Angel-Capo, seconded by Member Cruz, that this matter be APPROVED. PASSED by the following vote.

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

Assistant City Attorney Vizcaino asked if the finding #9 that she prepared would be included in the findings report.

Chairman de la O responded that there was no motion made to include the department's finding #9 other than the one sentence the Board voted on to include in the findings. He went on to say that in finding #10, last sentence, the employee has proposed to add the word "favoritism".

Following discussion, the Board entered a motion to add the sentence as proposed, which resulted as follows:

Motion by Member Angel-Capo, seconded by Member Cruz, that this matter be APPROVED. PASSED by the following vote.

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

The Board entered a motion to ADOPT the proposed Rule 16.1 Report which resulted as follows:

Motion by Member Cruz, seconded by Member Dames, to APPROVED. PASSED by the following vote.

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

E.2 05-01281

Copy of Findings of Fact concerning the grievance hearing on behalf of Khalil Mangabadi, Engineer I, Department of Public Works, pursuant to Civil Service Rule 16.2, Complaint by Employee. (DISCUSSION)

Deferred from the meeting of September 23, 2008.

Chairman de la O stated that the bold language that appears in finding #2 was included in the original proposed findings report prepared by Special Counsel Everett and that the department is asking that it not be stricken.

Attorney Rind stated that she is asking that this finding read the same as the language that appears in finding #2 of the Rule 16.1 report. She went on to say that this entire language is just a rendition of the facts that she thought was not a reflection of the Board's feelings in the case and that it is not accurate.

Assistant City Attorney Vizcaino stated that this is language that was from Special Counsel Everett's original proposed findings based upon the evidence heard by the Board.

Chairman de la O stated that it seems like a straight forward recitation of what happened.

Attorney Rind stated that if the Board believes that Ms. Grindell's testimony was that she had nothing to do with trying to manipulate the process at that point to try to get someone that she wanted, it was not her impression of what the Board considered to be factual or a basis for the Board's determination.

Chairman de la O called for a motion to strike the language in bold from finding #2. After hearing none, Chairman de la O stated that this language will remain as a part of finding #2. He went on to say that the remainder of finding #2 was resolved under the 16.1 report and shall therefore read the same in the Rule 16.2 report.

Member Angel-Capo asked how would finding #2 read in the report.

Chairman de la O responded that it would appear the way it currently reads inclusive of what the Board approved under the Rule 16.1 report. He went on to say that there was no need for the Board to consider finding #3 because it will read the same as the finding in the 16.1 report. Chairman de la O further stated that there is an second finding #3 that the employee has asked to be stricken.

Attorney Rind stated that she is asking that it be stricken because it was not submitted into evidence and she does not know if the Board found that Ms. Grindell was prompted and motivated to change a requirement based on an e-mail that was not submitted into evidence.

Chairman de la O stated that the Board Members read the e-mail.

Attorney Rind stated that the e-mail was not submitted into evidence. She went on to say that she is aware that the Chairman read the e-mail but she was not sure if the other Board Members were given a copy to read.

Member Dames stated that he read the e-mail.

Chairman de la O stated that this goes back to the vote the Board held earlier which was did Ms. Grindell remove the ABET accreditation requirement because she wanted to have her desired candidate in the rank of eligible candidates or because the pool was too small.

Following discussion, Member Angel-Capo made a motion to strike the proposed language in bold from finding #3; however, the motion DIED FOR LACK OF A SECOND.

Chairman de la O stated that there was a finding that was added to #4 by Attorney Rind and that the Board had already voted on how it should be worded in the 16.1 report and that it should read the same in the 16.2 report. He went on to say that there is also a paragraph in finding #4 that Attorney Rind has moved to strike.

Attorney Rind stated that her position was really to substitute one paragraph for the other, which is the same.

Chairman de la O stated that this matter was already resolved. He went on to consider

finding #5.

Attorney Rind stated that finding #5 should be the same as what is recorded in the Rule 16.1 report.

Chairman de la O asked about the stricken language that is also included in finding #5.

Attorney Rind responded that it is okay; it was just easier to do it that way.

Chairman de la O stated that there is language stricken through in finding #6, but it is not bolded. He asked if this means that this language was included in the original findings prepared by Special Counsel Everett, that the employee wishes to strike this language from the report and that the department has no objection.

Both attorneys responded in the affirmative.

Chairman de la O stated that findings #7 through #10 should read the same as how they are written in the Rule 16.1 report. He went on to say that with regards to the RECOMMENDATION section that is found on page 6, the department is objecting to add the phrase, "with the approval of the Union." Chairman de la asked the department's attorney to provide the reason for her objection.

Assistant City Attorney Vizcaino responded that there is no need to add that language to a findings of fact that would become a final judgment. She went on to say that there are policies and provisions that are in effect which everyone is aware of so there is no need to add it in the findings.

Chairman de la O asked Assistant City Attorney Vizcaino if she was saying it would be superfluous to add this language.

Assistant City Attorney Vizcaino responded in the affirmative.

Following discussion, the Board entered a motion to add the phrase, "with the approval of the Union" to #2 under the RECOMMENDATION section of the report, which resulted as follows:

Motion by Member Cruz, seconded by Member Dames, that this matter be APPROVED. PASSED by the following vote.

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

Chairman de la O referred the Board to Recommendation #4. He asked the department's attorney if she was only objecting to the word "egregious".

Assistant City Attorney Vizcaino responded in the affirmative.

Attorney Rind stated that she added the word only because it was the word used by Member Dames.

Chairman de la O stated that there is a problem because usually attorney fees go to the client and not the law firm and then the client presumably gives it to the law firm.

Special Counsel Everett stated that she thinks the request is to pay the law firm. She went on to say that legal fees are awarded separately through the entities.

Chairman de la O stated that he thought it went to the employee.

Following discussion, the Board entered a motion to add the word "egregious" to the sentence in Recommendation #4 which resulted as follows:

Motion by Member Angel-Capo, seconded by Member Dames, that this matter be APPROVED. PASSED by the following vote.

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

The Board entered a motion to APPROVE the findings as amended which resulted as follows:

Motion by Member Cruz, seconded by Member Angel-Capo, that this matter be APPROVED. PASSED by the following vote.

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

The Executive Secretary provided the Board Members with a copy of a letter prepared by Mr. Genady Beylin concerning the findings and stated that Mr. Beylin has asked that the Board review it.

No other discussion took place.

RECEIVED AND FILED

- E.3 08-01057** Copy of an offer letter and acceptance letter in the matter of Richard Valdes, AEO II, Department of Public Works, pursuant to Civil Service Rule 16.2 - Complaint by Employee, concerning an alleged violation of Civil Service Rule 8.7, Appointment. (NOTIFICATION)
Grievance hearing will be considered "Settled" and removed from Board's docket.

F. REPORTS

- F.1 08-00018** Pending Hearings as of October 7, 2008. (NOTIFICATION)

G. REQUESTS FOR HEARINGS

- G.1 08-00891** Copy of a request for a hearing from Osnat K. Rind, Attorney, on behalf of Kate Abia, Police Officer (Probationary), regarding her termination effective July 21, 2008. (DISCUSSION)
Deferred from the meeting of September 9, 2008.

Attorney Rind stated that this is the same issue that was brought before the Board at the last hearing so she is not sure if the Board is proceeding with an evidentiary hearing today or how the Board wants to conduct this particular phase of the hearing. She went on to say that she has copies relating to whether Ms. Abia was off probation by completing six months of satisfactory FTO and post FTO training and the actual evaluation.

Chairman de la O stated that the last time the Board Members met on this matter, they were trying to determine whether to grant Ms. Abia a hearing. He went on to say that the objection by the department is that the rules do not allow for a hearing by a probationary employee that is terminated and the argument made by Attorney Rind is that Ms. Abia should have already been employed because she was no longer on probation at the time she was terminated. He went on to say that the Board needs to

make the finding today of whether or not Ms. Abia was a probationary employee at the time she was terminated. Chairman de la O further stated that if the Board finds that Ms. Abia was a probationary employee at the time she was terminated, she has no right to a hearing and not only does she not have a right but she is barred from having a hearing. He stated that if the Board finds she was not on probation at the time she was terminated, the Board would have the discretion to grant Ms. Abia a hearing if it wishes to do so. Chairman de la O went on to say that the Board would have to take evidence to determine whether Ms. Abia was a probationary employee.

Attorney Rind presented documents and gave a brief overview of each document and provided an explanation as to why Ms. Abia is entitled to a hearing in support of her client's request.

Assistant City Attorney Vizcaino stated that she is prepared to go forward on a jurisdictional hearing, which is what the Board set this matter for. She went on to say that she is also prepared to address various issues via argument because she recalls that the Chairman asked opposing counsel whether or not Ms. Abia could pursue any causes of action in State Court for breach of contract which are issues she is prepared to argue at this time without having to hear evidence from witnesses.

Chairman de la O stated that the issue at hand is whether or not Ms. Abia was a probationary employee; therefore, the department needs to put on any evidence to prove that she was on probation at the time she was terminated.

Assistant City Attorney Vizcaino stated that she would argue that it would be opposing counsel's burden to prove otherwise. She went on to say that she repeatedly made the arguments the last time the Board met, which was Ms. Abia was on probation at the time she was terminated. Assistant City Attorney Vizcaino further stated that opposing counsel argued that Ms. Abia was given a special guarantee when she submitted her memo stating that she had no objection to the extension of her probationary period. She stated that as to the allegation that Ms. Abia was given a special guarantee, she would argue that this memo was addressed from Chief Adam Burden to Civil Service and not Ms. Abia. Assistant City Attorney Vizcaino went on to say that this is a memo that has been used repeatedly by the Police Department whenever a police officer is before the Board regarding an extension of probationary period request and there has never been an issue. She further stated that she has copies of memos for which police officers' probationary periods were extended, the memo has never been contested, and the thought that this memo was a special guarantee given to an employee is not founded.

Attorney Rind stated that she does not know if it is special, but it could have happened before.

Chairman de la O reminded both attorneys that they were not on argument but on presenting their cases.

Assistant City Attorney Vizcaino asked if opposing counsel would be putting on witnesses.

Attorney Rind responded that she has her documentation and it is what it is.

Chairman de la O stated that the department needs to establish why it believes Ms. Abia was a probationary employee at the time she was terminated.

Assistant City Attorney Vizcaino asked that the Rule of Witnesses be invoked.

Chairman de la O asked Attorney Rind if she had any witnesses she needed to exclude.

For clarification purposes, Assistant City Attorney Vizcaino asked if opposing counsel is saying that she is not calling witnesses because it is her position that this is Attorney Rind's burden to show that Ms. Abia was not in a probationary status when she was terminated.

Chairman de la O stated that as he understands it, what has occurred so far is the employee has put on all of the documents, which seems to indicate that she has done everything she was supposed to do to prove Ms. Abia was no longer a probationary employee on a particular date. He went on to say that Attorney Rind has not called any witnesses; therefore, if the department feels that opposing counsel did not meet her burden she could move for a directed verdict and if not, the department would be required to put on its case and if the employee's attorney desires, she may put on rebuttal witnesses. Chairman de la O asked Assistant City Attorney Vizcaino if she wished to move for a directed verdict.

Assistant City Attorney Vizcaino responded that she does not think opposing counsel met her burden but she is not willing to take that chance before this Board.

Chairman de la O stated that Motions for Directed Verdict are without prejudice so either side does not lose anything by making that motion.

Assistant City Attorney Vizcaino moved for a directed verdict with the caveat that she would be allowed to present witnesses to rebut opposing counsel's claim.

Following discussion, the department's Motion for a Directed Verdict FAILED due to the lack of a motion by the Board.

The Board entered into the Threshold Evidentiary Hearing of Ms. Kate Abia, former police officer.

Diana Vizcaino, Assistant City Attorney, represented the Department.

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

The Rule of Witnesses was invoked and all witnesses were sworn in individually. Witnesses for the Department appeared in the following order:

- 1. Jorge Valladares, Police Personnel Coordinator, City of Miami, Department of Police.*

Questions were posed by Board Members Scarola, de la O, and Angel-Capo during the testimony of Witness Jorge Valladares.

- 2. Fabio Aguero, Sergeant of Police, City of Miami, Department of Police.*

Questions were posed by Board Members Scarola, Dames, Angel-Capo and Cruz during the testimony of witness Fabio Aguero.

- 3. Kelvin Harrison, Sergeant of Police, City of Miami, Department of Police.*

The Department rested its case.

Witnesses for the Grievant appeared in the following order:

- 1. Jesus Valdivia, Police Sergeant, City of Miami, Department of Police.*

Questions were posed by Board Members Dames, de la O, and Cruz during the testimony of witness Jesus Valdivia.

2. Carlos Avila, Police Officer/FOP Union President, City of Miami, Department of Police.

Questions were posed by Board Member de la O during the testimony of witness Carlos Aguilar.

The Grievant rested her case.

Following closing argument by both attorneys, Chairman de la O stated that he thinks that he identified a different issue at the first hearing and that is what it ultimately comes down to here today. He went on to say that he asked if there is some kind of magical thing that has to happen between the time the six-month satisfactory post-FTO evaluations are complete and the officer becoming permanent and what the Board has learned today, there is such a system. Chairman de la O further stated that both Mr. Valladares and Mr. Avilar agreed that if an employee is on probation, there must be a recommendation [for permanent status] and it must go through the chain of command, which makes a lot sense from a policy perspective. He stated that just because the officer has completed the training and they have not been made permanent as yet, something might happen and the department is not going to make a person permanent if something has happened in the meantime. Chairman de la O went on to say that he thinks one would need to read into the interpretation of the memorandum which is ultimately what this comes down to because the Collective Bargaining Agreement only says that the member shall complete this training but it does not say that is all they would have to do to become permanent. He further stated that the departmental order says that the memorandum is supposed to be generated before the probationary period expires and the reason it is written this way is because if nothing is done before the probationary period expires, the employee would become permanent, but this was a case where what the officer was trying to do was move up the time period. Chairman de la O stated that Attorney Rind made an interesting argument that made him stop, which is the Board is not saying that Ms. Abia was permanent, but that the probationary period ended and the problem with that is there is no purgatory. He went on to say that with all City employees, they are either probationary or permanent and there is no middle ground so the question is did Ms. Abia ever make that jump from probationary status to permanent status. Chairman de la O further stated that both Mr. Valladares and Officer Avilar testified that what had to happen in order for Ms. Abia to become permanent was that a recommendation had to be submitted. He stated that why the recommendation had to happen, he does not think is the Board's problem and did it happen because of negligence as the employee's attorney believes happened, he doubts that was the case. Chairman de la O went on to say that if anyone watched Mr. Valladares testify, he thinks it was intentional because the City had no intention of making Ms. Abia permanent because of things that were going on and were the things that were going on right or wrong, he does not know because the Board did not want to get into that area since it is only making a preliminary finding. He further stated that the City did not take that step and had it not taken that step of terminating Ms. Abia prior to September 12 2008, she absolutely would have become permanent, but they did not take that step and there was this magical step that had to happen so he does not see how that step was satisfied so Ms. Abia was not anything other than a probationary employee at that time she was fired. Chairman de la O stated that whether the memorandum is going to give the employee other remedies outside of this hearing, he has no idea.

Following discussion, Member Cruz made a motion to GRANT Kate Abia's request for a hearing. The motion DIED FOR LACK OF A SECOND.

Chairman de la O relinquished the Chair and the Board entered a motion to DENY Kate Abia's request for a hearing which resulted as follows:

Motion by Chairperson de la O, seconded by Member Dames, that this matter be APPROVED. FAILED by the following vote.

Aye: Chairperson de la O and Chief Examiner Scarola

No: Member Dames, Member Angel-Capo and Member Cruz

The motion having failed, the Board entered a motion to GRANT Kate Abia's request for a hearing.

Under discussion, Member Scarola asked if a hearing could be held without first determining whether or not Ms. Abia was in a probationary status at the time of her termination.

Chairman de la O stated that is the motion on the floor. He went on to say that everyone agrees that it is not in dispute that if Ms Abia was a probationary employee at the time she was terminated that she is not entitled to a hearing and if any of the Board Members believe that she was not a probationary employee at the time she was terminated that she is entitled to a hearing to find out why she was fired and if the department had cause to terminate her under the Civil Service Rules.

Following discussion, the motion on the floor to GRANT Kate Abia's request for a hearing resulted as follows:

Motion by Member Dames, seconded by Member Cruz, that this matter be APPROVED. PASSED by the following vote.

Aye: Member Dames, Member Angel-Capo and Member Cruz

No: Chairperson de la O and Chief Examiner Scarola

G.2 08-01197

Request for hearing from Tyrell A. Williams, Waste Collector, pursuant to Civil Service Rule 16.1 Investigation by the Board. (DISCUSSION)

The Executive Secretary stated that in the essence of time, she would ask that (in lieu of a presentation) the Board ask Mr. Williams questions concerning his request, if applicable.

Chairman de la O stated as he understands Mr. Williams' complaint, he was relieved of duty on August 7, 2008 and on August 13, 2008, he was asked to sign a letter of resignation and now he wishes to withdraw the resignation. He asked Mr. Williams if his understanding of his complaint was correct. Tyrell Williams responded in the affirmative.

Chairman de la O asked Mr. Williams to tell the Board the basis for his resignation. Mr. Williams stated that a Solid Waste union representative misled him.

Chairman de la O asked Mr. Williams if he could be specific about the manner in which he believes he was misled.

Mr. Williams stated that this whole case is really crazy. He went on to say that he is not a union member, but when he was going through his situation, the union representative, Mr. Simmons, would call him to let him know what was going on with his [criminal] case. Mr. Williams further stated that Mr. Simmons called him numerous times and let him know that because he was a convicted felon there was the possibility that he could lose his job and pension and because of this, he was told he needed to resign so that he

could get his pension contributions. Mr. Williams further stated that his back was against the wall since at that time he was suspended without pay due to an investigation that was being conducted concerning a 2003 incident, which involved him. He stated that when Mr. Simmons called him a second time, he indicated that everything was going okay concerning his situation, but when he called him a third time, Mr. Simmons told him that he did not think he would have a job because he confessed to the crime. Mr. Williams further confirmed that he did confess to the crime that occurred in 2003.

Chairman de la O asked if the Board has jurisdiction to consider the withdrawal of a resignation letter.

Member Scarola stated that he thinks Mr. Williams is asking for an investigation.

In response to the Chairman's question, Special Counsel Everett stated that she believes Mr. Williams' request is before the Board to get an understanding of his request, but the Board would have no jurisdiction or authority to rescind the resignation.

The Executive Secretary stated that there were several meetings with Mr. Williams and he understands that the Board cannot entertain a withdrawal or an appeal of a resignation. She went on to say that she believes his request has more to do with the duress he feels he was put under in terms of misinformation he was given in signing a document [to resign his position]. The Executive Secretary stated that Mr. Williams initially asked her if he could appeal his resignation and she told him he could not since the Board does not have such a mechanism regarding rescinding of resignations. She went on to say that it was also explained to Mr. Williams that the only contract that refers to the ability of an employee to withdraw their resignation is the AFSCME-Local 1907 (general employees) contract, which gives covered employees 24 hours. The Executive Secretary further stated that Mr. Williams' request is for an investigation regarding the circumstances surrounding his resignation.

Chairman de la O asked if it is an investigation regarding Mr. Simmons' conduct since he is a union representative and Mr. Williams is not a union member.

Joe Simmons, Union President/AFSCME-Local 871 (Sanitation Workers Union), appeared before the Board and stated that in August 2008 he received a call from an employee advising him to turn on the television to watch the news concerning some City of Miami sanitation workers who were arrested. He went on to say that he obtained the names of the arrestees via the internet and that he obtained a copy of his membership listing from Tallahassee, Florida. Mr. Simmons further stated that he assumed the membership information was correct since Tallahassee maintains the database for his union's membership. He stated that as union president, he has a legal and ethical obligation to represent the terms and conditions of those employees who fall under the jurisdiction of his organization, AFSCME-Local 871 (solid waste employees). Mr. Simmons went on to say that Mr. Williams has been with the Solid Waste Department a little over 8 years and he wants the Board to believe that he was under duress when he signed the resignation letter. He further stated that to set the stage, some time ago Mr. Williams was told that he could take up to four weeks of vacation, which was approved; however, his supervisor told him that he could not take the four-week vacation and the vacation slip was rescinded. He went on to say that Mr. Williams approached Mr. Dixon (union representative) and told him that he was coerced into signing a two-week leave request.

Chairman de la O asked Mr. Simmons if he thought that Mr. Williams was a union member.

Mr. Simmons responded in the affirmative. He went on to say that when he has the

membership list in front of him, there are certain things that go into place, which are that he sits down with employees and advise them of the seriousness of the allegations they may be facing. Mr. Simmons further stated that he never dealt with the criminal aspect of Mr. Williams' case and chose not to do so.

Chairman de la O asked Mr. Simmons if he gave Mr. Williams advice thinking that he was a union member. Mr. Simmons responded in the affirmative.

Special Counsel Everett stated that she is guessing that Mr. Williams is requesting an investigation hearing pursuant to Rule 16.1; however that he would need to be more particular in articulating to the Board which rule(s) he felt was violated.

Chairman de la O stated that he does not practice labor law, but asked if there is a mechanism under federal law that is available to employees if they have a complaint against their union.

Mr. Simmons responded in the affirmative. He went on to say that the individual would have to contact the Florida Public Employees Relations Commission (FPERC). He went on to say that at the time Mr. Williams resigned, he was a permanent employee, so in a meeting with the six employees who were arrested he told them that very serious charges were brought against them and that they should discuss this matter with their family, make sure that they felt comfortable about the decision they would take, and let him know what they wished to do after speaking with their family. Mr. Simmons stated that Mr. Tyrell Williams telephoned him approximately two hours later and informed him that he just wanted to resign and that he would deal with the criminal system at a later time. He stated that he advised Mr. Williams that he would have to submit a resignation letter to the City for processing if he was telling him that he wanted to resign and Mr. Williams asked him how to go about doing that. Mr. Simmons stated that after he explained the process, Mr. Williams advised that he did not have a computer and he told Mr. Williams that he would prepare the letter and in doing so, he prepared identical letters for Mr. Williams and Ms. Darlene Miller. He went on to say that he met Mr. Williams at his home and upon giving him the letter advised him that if there was anything in the letter he wished to change he would be happy to do so to which Mr. Williams read the letter, thanked him, and signed the letter. Mr. Simmons stated that he gave the original resignation letters to Mr. Patterson (Assistant Director of Solid Waste), which were date-stamped, and he made copies of the letters. He went on to say that the following day he along with Mr. Dixon went to Mr. Williams' home and provided him a copy of the letter. Mr. Simmons further stated that Mr. Williams looked at the letter and thanked him so he can honestly say that Mr. Williams was not under duress when he signed the letter. He stated that everything he does, he does in the best interest of the employees and he always asks that the employee inform him of what their preferences are before he goes forward with a document that the employee has signed. Mr. Simmons went on to say that Mr. Williams' request is irrelevant and proceeded to read into the record, Article 18, "Loss of Employment", of the Solid Waste Union Contract in support of his argument. He further stated that he would ask that the Board deny Mr. Williams' request because the union contract supersedes the Civil Service Rules in this matter and that if Mr. Williams did not want to resign he had access to the grievance procedure.

Chairman de la O asked Mr. Williams to tell the Board what he thinks Mr. Simmons has to gain by forcing him to resign.

Mr. Williams responded what he is going through now happened in 2003. He went on to say that a former employee by the name of Barbara [displayed Xeroxed photo to Board] approached him and asked if he wanted to make \$700 by using his medical insurance card to pick up medications. Mr. Williams further stated that the woman did not put a

gun to his head or her hands around his throat instead she gave him the [prescription], he went to 36 Street and 17th Avenue and picked up the prescription, returned with the prescription and Barbara gave him \$200 and promised that she would give him the \$500 some time later.

Chairman de la O reminded Mr. Williams that he needed to get to the portion about his resignation.

Mr. Williams stated that after the police came to his home and advised him that all of them [six employees] were under investigation about a scam, the officer showed him a picture of himself going into the drug store. He went on to say that he identified the woman in the picture and told the officer that he and the lady did some transactions and he explained what happened during the [transaction] process. Mr. Williams further stated that was the only time he ever engaged in something like this and he got caught. He stated that this happened in 2003 so what happened in 2008 was that Mr. Simmons called him. He went on to say that he really does not want to waste the Board's time but if he really wanted to investigate Mr. Simmons, he could get an investigator to take a listing of all the phone calls he had with Mr. Simmons and the Board would then know what the two of them spoke about. Mr. Williams further stated that he cancelled his membership with the union on February 12, 2008 so when he was going through his situation, it was common sense not to call Mr. Simmons.

Chairman de la O asked Mr. Williams how he ended up signing the resignation letter. Mr. Williams responded that Mr. Simmons told him that since he signed the court documents this made him a convicted felon and for that reason it would be in his best interest to resign so that he could get his pension.

Chairman de la O asked Mr. Williams if he felt that was bad advice.

Mr. Williams responded at that time his back was against the wall because he did not know what was going on. He went on to say that he did not have union representation or a lawyer so he was just waiting for the outcome of the court case since at that time he was suspended without pay. Mr. Williams further stated that Mr. Simmons asked him what he wanted to do and he replied that he did not know what to do. He went on to say that Mr. Simmons advised him that he was trying to help him out so that he could get his pension contributions and at that time, Mr. Simmons took from his folder a blank piece of paper, asked him to sign it, and told him that he would take care of everything. Mr. Williams further stated that he asked Mr. Simmons what was it that he was going to take care of and Mr. Simmons responded that he would take care of everything. He stated that that he then told Mr. Simmons to provide him with a copy of whatever he was going to do and Mr. Simmons returned two days later with his signed resignation letter although he does sign his name the way it appeared in the letter.

Chairman de la O asked Mr. Williams what did Mr. Simmons have to gain by getting him to resign through this means.

Mr. Williams responded that he does not know because he did not call Mr. Simmons, but Mr. Simmons called him and told him that he was going to lose his job and pension. He went on to say that Mr. Simmons railroaded him because although he was no longer in the union, he thought Mr. Simmons was trying to help him and also he is trying to tell the Board that he did not sign the resignation letter.

Chairman de la O assured Mr. Williams that the Board understands his complaint and related to him that he is now trying to find out if there some reason that the Board should hear his case. He asked Special Counsel Everett if Rule 16.1 would be the only basis to hear Mr. Williams' complaint for which he alleges that Mr. Simmons handed him a blank

sheet of paper to sign and typed a resignation letter around his signature.

Special Counsel Everett responded that under Rule 16.1 the Board would have to believe that the rules and regulations were violated and if the Board feels this is the case, it would investigate that activity.

Chairman de la O called for a motion to GRANT Mr. Tyrell Williams' request for a hearing pursuant to Rule 16.1. Under discussion, Member Angel-Capo stated that she was confused as to what the Board would be voting on.

Chairman de la O responded that Mr. Williams' complaint is that Mr. Simmons convinced him to sign his name on a blank sheet of paper and then prepared a resignation letter around his signature.

Member Dames stated that this issue involves the union so he does not think the Board has jurisdiction to hold a hearing.

Mr. Simmons stated that there is a mechanism in the contract that is outlined in the grievance procedure that Mr. Williams could have opted for if he chose to go that route, but he would have had to file at that time, but Mr. Williams resigned because he thought that he was going to prison.

Following clarification and further discussion, the Chairman asked for a motion to either GRANT or DENY Mr. Williams' request for a hearing. The Board entered a motion to DENY Mr. Williams' request for a hearing which resulted as follows:

Motion by Chief Examiner Scarola, seconded by Chairperson de la O, that this matter be APPROVED. PASSED by the following vote.

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

G.3 08-01103

Request for hearing from Raul R. Delgado, Police Officer, pursuant to Civil Service Rule 16.2 - Complaint by Employee, concerning an alleged violation of Civil Service Rule 8.14, Police Promotions. (DISCUSSION)

Attorney Rind stated that Officer Delgado's issue is similar to a request where the Board was asked to by a firefighter who was denied an opportunity to sit for a promotional exam for a grievance hearing. She went on to say that Officer Delgado's complaint is that the department is taking the position that he does not have the required 3 years of continuous service and Officer Delgado says otherwise.

Assistant City Attorney Vizcaino stated that she does not know what case Attorney Rind is referring to that the Board has granted similar request, but she does know that Officer Delgado wanted to sit for the sergeant promotional exam but because of a one-day suspension, he did not have 36 months of actual, continuous, satisfactory service (as required by the Civil Service Rules). She went on to say that she does not recall this issue being before the Board and that Officer Delgado is not entitled to a hearing.

Chairman de la O stated that he recalls the request coming up, but he thought the officer did not show up at the meeting.

Attorney Rind stated that she might be wrong, but she thinks that Attorney Teri Guttman-Valdes is representing a firefighter who is presenting somewhat of a similar issue.

The Executive Secretary stated that if Attorney Rind is referring Firefighter (Edward)

Diez' case, there are several allegations that were made by him and his attorney, however, they include alleged violations of Civil Service Rules 5 through 8 so she doesn't believe it contains the same situations.

Chairman de la O asked if Officer Delgado was suspended.

Attorney Rind stated that Officer Delgado was suspended but the question is whether under the Rules and under past practice in the department that employees with 3 years of actual, continuous satisfactory service means that someone who was suspended for one day meets the requirements to sit for the promotional exam. She went on to say that she has evidence to prove that the department does not count a suspension as a disqualification of continuous service. Attorney Rind further stated that all an officer needs is satisfactory, continuous service and a one-day suspension does not disqualify an officer under the Rules. She stated that she guess the Board will have to make that determination but that is Officer Delgado's request.

Chairman de la O stated that he has never had the issue come up since he has been on the Board. He asked the Executive Secretary if the Board ever ruled on whether or not a suspension breaks up a satisfactory service.

The Executive Secretary responded in the negative. She went on to say that in her history, a suspension has always counted as a break in service.

Attorney Rind stated that she is saying that there are other officers who probably have sat for an exam having been suspended and it was not held to disqualify them.

The Executive Secretary stated that as a former recruiter and evaluator of applications, it has happened in the past where an employee's suspension has kept him from becoming eligible for a promotional exam. She went on to say that what has happened is a person may have worked for a year, been suspended for a period of time, and in the end has had the required number of years of continuous satisfactory service to sit for the exam and in Mr. Delgado's case, it just so happened to break up his service.

Jose Delgado, Police Officer, appeared and stated that he has been employed for 5 years and 11 months. He went on to say that what happened in his case was after 2 years and 10 months of employment he handled a felony arrest and forgot to call the State Attorney's Office for a pre-file conference [and as a result, he was ordered to serve a one-day suspension].

Assistant City Attorney Vizcaino objected to Officer Delgado going into the merits of his one-day suspension and stated that it is not relevant. She went on to say that the issue before the Board is he did not have 36 months of satisfactory, continuous service as required for sitting for the exam.

Chairman de la O stated that the point is whether Officer Delgado received a suspension because he committed a huge crime or if it was something minor that blocked him from sitting for the exam.

Officer Delgado asked the Chairman if he was saying that it is right for persons who had been relieved of duty to be allowed to sit for a promotional exam and not right for him to sit for the exam because he missed one day of court. He went on to say that he thinks that (this reasoning) is a little bit off of the wall.

Chairman de la O stated that he disagrees with Officer Delgado when he explains it the way he did, but the question is whether the Board wants to grant a hearing to determine whether a suspension blocks a finding of continuing service.

Assistant City Attorney Vizcaino stated that with all due respect to the Chairman, what he presented as being the issue before the Board is not the issue. She went on to say that Officer Delgado's complaint is that he was not allowed to sit for the sergeant promotional exam because of his one-day suspension.

Chairman de la O responded that what Attorney Vizcaino explained to be the issue, he believes he said the same thing.

Assistant City Attorney Vizcaino stated that it appeared that the Chairman stated a different issue.

Chairman de la O stated that he does not want to state a different issue and he thought he was phrasing the correct issue, which is whether a suspension blocks a finding that someone has continuous service.

Assistant City Attorney Vizcaino stated that she misunderstood the Chairman and apologized.

Member Dames asked Officer Delgado if he has proof to support the allegations he made. He went on to say that he understands that Officer Delgado feels that the one-day suspension is harsh, but it is what it is. He went on to say that if the continuous service is cut off by one day or two hours, it is still cut off and he knows that Officer Delgado lost seniority due to that suspension. Member Dames further stated that he would vote to give Officer Delgado a hearing if he can prove that this is past practice. He stated that just because Officer Delgado says there is past practice does not mean this is the case.

Attorney Rind responded that she understands Officer Delgado's position would have to be proven and she thinks that is part of why they are asking for a hearing.

Member Dames asked Attorney Rind if she has proof on this issue.

Attorney Rind responded that Officer Delgado has just retained her so she has not made a public records request. She went on to say that she was present at the FOP Office when discussions took place on this issue and it may be what the Board will find, but she is not going to make that representation since she has not done the actual public records request and the research so she cannot answer Member Dames' question with a yes or no.

Member Dames stated that Officer Delgado's allegation is that there have been officers who have done worst things than him and were allowed to sit for a promotional exam, were promoted and are in the high hierarchy as we speak today. He asked Officer Delgado if this is his assertion. Officer Delgado responded in the affirmative.

Chairman de la O asked Attorney Rind if she was given time, would she be able to find the records. Attorney Rind responded in the affirmative.

Chairman de la O stated that if there is going to be argument, then it is worth having a hearing, but if at the end of the day there is not, he will say right now that he will apply the rule the way it is written and if the department has different rules for different people, then he would give consideration to that also.

Member Scarola stated that he does not want to get into a lengthy discussion because time is limited, but he thinks the matter should be tabled to the next meeting. Special Counsel Everett stated that she thinks a time certain should be placed on this item.

DEFERRED ----- Without objection from other Board Members, Chairman De la O instructed the Executive Secretary to reschedule Officer Delgado's request within 6 weeks for the purpose of allowing his attorney sufficient time to prepare her case.

G.4 08-01198

Request for hearing from Mark Terry, Esq., pursuant to Civil Service Rule 14.1(b), concerning charges brought forth against Favian Rodriguez, Police Officer. (DISCUSSION)

Chairman de la O informed Mr. Terry that he'd read his complaint and asked if there was anything else he wished to add to the complaint.

Mark Terry, Private Citizen, responded that he filed written charges against Officer Favian Rodriguez for among other things, assault and battery and that his authority for requesting a hearing is Rule 14.1(b) which states, "The Civil Service Board shall have the right to remove or reduce any employee upon written charges preferred by any citizen but only after reasonable notice to the accused and a full hearing." Mr. Terry further stated that he noticed Attorney Rind is about to say something on this matter, but this is hearing to determine whether the Civil Service Board has the authority to grant a hearing based on charges proffered by an individual citizen. He stated that Attorney Rind has no standing to assert her client's rights before the Board because her client's rights are not being meted out in this hearing since this is simply a discussion to determine whether or not a citizen can institute a hearing upon a City employee.

Chairman de la O stated that he disagrees with Mr. Terry because the employee has a right to be heard as to whether there should be a hearing and the Board will be determining today whether a hearing should be granted and that requires jurisdiction, which is one of the primary issues.

Mr. Terry stated that he begged to differ because he does not see anything in the Rules that specifically state that an employee has the right to stop a hearing from happening. He went on to say that an employee is entitled to having a hearing, having an attorney present and having an opportunity to give his story and all he is asking for, is a full hearing so that he can also give his story so that the Board can make its decision.

Chairman de la O stated that if a hearing does not go forward, it would not be because an employee stopped it, but because the Board would have ruled that there should not be a hearing. He went on to say that the question is what input does the Board get in making its decision on whether to grant a hearing and the response would be that the input would come from the department, the Board's Special Counsel, and the employee if they can point out that there is no jurisdiction or probable cause to hold a hearing. Chairman de la O further stated that Mr. Terry made certain allegations so if the Board has jurisdiction, he could certainly say there is probable cause so he does not think that is going to be a big issue.

Mr. Terry stated that if there are any arguments to be made that the Civil Service Board does not have jurisdiction to hold a hearing that finding should be an argument made by the attorney of the Civil Service Board and not the employee's attorney. He went on to say that it is improper and inappropriate to have a private attorney to make arguments representing the rights and interests of the Civil Service Board because this would be a conflict of interest.

Chairman de la O stated that at the end of the day the Board will make a decision and it would like to make the decision based on the input of everybody so that the right decision is made. He went on to say that if the Board does not have jurisdiction, but somehow the Board's attorney did not know it, he would want to hear about it so that he

does not find about it at a hearing later on.

Attorney Rind responded that their position is that the Board does not have jurisdiction and that she only represents Officer Rodriguez in this proceeding.

Mr. Terry stated that Attorney Rind's representation of Officer Rodriguez at this proceeding is inappropriate and improper and that he thinks it is a conflict of interest.

Attorney Rind stated that Assistant City Attorney Vizcaino could correct her if she is wrong, but they are in agreement on this issue. She went on to say that the Board knows that there is a Police Officer Bill of Rights, that is found in Chapter 112, Section 6 of the State Statutes. She went on to say that she gave the Board three Attorney General Opinions for their consideration. Attorney Rind further stated that under the Police Officers Bill of Rights, there is a particular procedure that must be followed when allegations of misconduct are made against an officer. She stated that such allegations are specifically to be sent to Internal Affairs and in fact, any Board that receives allegations of misconduct against an enforcement officer has, since the recent amendments to this Statute in 2007, an obligation to forward those complaints to Internal Affairs. Attorney Rind went on to say that she believes that Mr. Terry's allegations have also been filed with the Civilian Investigative Panel (CIP) and have been forwarded to Internal Affairs.

Chairman de la O asked Attorney Rind when she said that the allegations were sent to Internal Affairs did she mean for exclusive jurisdiction as opposed to notification.

Attorney responded in the affirmative. She went on to say that for exclusive jurisdiction, the complaint must be forwarded within five business days to the department, which is the subject of the complaint.

Chairman de la O asked Attorney Rind if she could direct the Board to where this language is found.

Attorney Rind stated that it is not in the Opinions that she handed out, but it can be found in Chapter 112.533, Section 1(b)(1)(2). In support of her argument, she went on to relate a 1997 case cited in one of the opinions which addressed whether a Citizen Review Board had the authority to make recommendations regarding complaints that were proffered by citizens and that the Attorney General opinion was that the Board did not have jurisdiction to do so. Attorney Rind further stated that the only entity that can address allegations of misconduct against a police officer is Internal Affairs. She stated that in the 2006 Attorney General Opinion it asked the question, "Is the Miami-Dade Law Enforcement Department the exclusive entity that can investigate such complaints" and the Attorney General said it was. Attorney Rind went on to say that their position is the Civil Service Rules and the Ordinances, which she believes predate the creation of Chapter 112 cannot be in violation of that Statute because under that Statute police officers can be investigated by their department and they have certain rights to have complaints provided to them, witness statements have to be taken first, and to have representation.

Chairman de la O stated that the Board had a case whereby a Crime Scene Investigator lodged a complaint against one of her underlings and the Board ruled against the employee in that case. He asked how the Board had jurisdiction over that case when it did not go through Internal Affairs.

Attorney Rind stated that it could be that no one raised the issue, but she is.

Member Scarola stated that (what the Chairman was referring to) was a harassment

case (that involved civilians), which is different. He went on to say that the Rules were written in the 1920's and the Officers' Bill of Rights came out in the mid 1970's. He went on to say that maybe this is the first time this issue is raised and the Board realizes that there might be a conflict; however, Mr. Terry has raised criminal allegations against Officer Rodriguez and he does not see how the Board can investigate this matter because this would be Internal Affairs' job to investigate. Member Scarola asked Mr. Terry if he sent his complaint to Internal Affairs.

Mr. Terry responded in the affirmative.

Member Scarola stated that since Internal Affairs has Mr. Terry's complaint, it has 180 days to complete action on the complaint. He went on to say that his opinion would be to table this matter until the Board knows the outcome of the Internal Affairs' investigation especially since the Board does not know if Internal Affairs may charge Officer Rodriguez or even terminate him. Member Scarola further stated that even when the Civilian Investigative Panel investigates a matter against a police officer, it makes a recommendation, but it is the department that can take action against its employees. He stated that back in 1921, the Board probably was the entity to investigate citizen complaints against all employees, but at this time he does not think this is the proper forum to address Mr. Terry's complaint until Internal Affairs has completed its investigation.

Mr. Terry stated that he begged to differ because different forums perform different jobs. He went on to say that if the police department believed that a crime occurred, it would turn the matter over to the State Attorney's Office which would pursue criminal charges against the employee, but that is not what the Civil Service Board does. He went on to say that the Civil Service Board disciplines, terminates, demotes etc., which is beyond the scope of the State Attorney's Office.

Chairman de la O stated that when an employee is disciplined, terminated, or demoted, the employee appeals to the Board and the Board uphold or does not uphold the recommended discipline.

Mr. Terry stated that he is reading from Rule 14.1 which states, "Power of suspension, removal, fine or demotion." In support of his argument, Mr. Terry proceeded to read a caption from the Civil Service Board's web page, which states, "FUNCTIONS AND OFFICERS OF THE BOARD. The Civil Service Board acts like a court in hearing appeals of disciplinary actions, grievances, and investigation hearings concerning alleged violations of Civil Service Rules from employees and non-employees." He went on to say that the Rules are littered with descriptions of what the Board can and cannot do and dismissals, resignations, and demotions is what the Board does and not something neither Internal Affairs nor the State Attorney's Office would do.

Chairman de la O stated that under Rule 14.1(b) it does indicate that the Board has the right to remove or reduce any official or employee in the classified service based upon misconduct by any citizen after reasonable notice to the accused employee for a hearing. He went on to say that the question becomes are the Civil Service Rules preempted by the Police Bill of Rights and asked Mr. Terry for his position on the Bill of Rights.

Mr. Terry responded that he thinks that is beyond the scope of a hearing because this is just a forum to decide whether or not the Board can grant a hearing based upon charges proffered by a citizen.

Chairman de la O stated that it is exactly the scope of the hearing, but if he would like more time to research the Bill of Rights, he would certainly grant him that time and he

could come back. He promised Mr. Terry that he would schedule his item first on the agenda for discussion since he waited so long today to have his request considered. Chairman de la O advised Mr. Terry that there is doubt that the Board has jurisdiction to hear his request so if the Board is barred by the Bill of Rights that is Florida law and it trumps the Civil Service Rules.

Mr. Terry stated that he could write an expansive legal memorandum explaining why the Board has jurisdiction to hear his complaint and he is sure Attorney Rind would prepare a memorandum stating just the opposite and he will sit for 8 hours only to be in the same place that he is right now. He went on to say that he thinks that it is purely an academic exercise and the Chairman is probably going to be the only person on the Board who is going to have the expertise to understand the legal arguments.

Chairman de la O stated that it is not an academic exercise but the necessary because he cannot grant a hearing without first having jurisdiction. He went on to say that to be fair, he has not read Attorney Rinds' submissions because he just received them, so he does not know if Attorney Rind is right or wrong. Chairman de la O further stated that he could see it both ways in that Attorney Rind might be right or she might be wrong. He stated that the fact that CIP and Internal Affairs have jurisdiction means that the Board may not, he does not know but what he is saying is that if he were to vote right now, he would vote against holding a hearing because Mr. Terry has not explained why the Bill of Rights does not apply. Chairman de la O suggested that Mr. Terry come back at a future meeting to address the case law and tell the Board why he thinks it has jurisdiction to hear his complaint if that is what he believes. He informed Mr. Terry that the Board meets every two weeks and asked him when he would like to return to discuss this matter.

Mr. Terry responded that he would like to return in two weeks.

Chairman de la O informed Mr. Terry that if he submits anything to the Executive Secretary, she could then pass it around to the Board Members to read it ahead of time. He advised Attorney Rind that if she had anything else to submit that she could also forward it to the Executive Secretary.

TABLED -----Without objection from other Board Members, Chairman de la O instructed the Executive Secretary to schedule Mr. Terry's item first on the Board's agenda under the REQUESTS FOR HEARINGS section for further discussion at its October 21, 2008 meeting.

H. TODAY'S HEARINGS

H.1 05-00873 Hearing of appeal on behalf of Reginald Kinchen, Police Sergeant, relative to his 20-hour forfeiture, effective July 27, 2005.

The Board entered a motion to CONTINUE the hearing of Sgt. Reginald Kinchen and charge the continuance to the Board due to time constraints which resulted as follows:

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

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

H.2 07-00354 Grievance hearing on behalf of Miguel Hervis, Police Lieutenant, pursuant to Civil Service Rule 16.2, Complaint by Employee, concerning a violation of Civil Service Rule 17.1, Practices, Penalties.

the continuance to the Board due to time constraints which resulted as follows:

Motion by Member Dames, seconded by Member Cruz, that this matter be CONTINUED. PASSED by the following vote.

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

H.3 08-00686

Grievance hearing on behalf of Devell King, Waste Collector, pursuant to Civil Service Rule 16.2-Complaint by Employee, concerning an alleged violation of Civil Service Rule 14.2 (h), (i), and (r).

The Board entered a motion to CONTINUE the hearing of Devell King and charge the continuance to the Board due to time constraints which resulted as follows:

Motion by Member Cruz, seconded by Member Dames, that this matter be CONTINUED. PASSED by the following vote.

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

H.4 06-01084

Hearing of appeal on behalf of Orlando Borges, Police Officer, relative to his 20-hour suspension, effective June 7, 2006.

The Board entered a motion to CONTINUE the hearing of Officer Orlando Borges and charge the continuance to the Board due to time constraints which resulted as follows:

Motion by Member Cruz, seconded by Member Angel-Capo, that this matter be CONTINUED. PASSED by the following vote.

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

ADJOURNMENT:

The Chairman called for a motion to ADJOURN.

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

The meeting adjourned at 2:54 P.M. Breaks were taken at 12:31-12:49 PM and 1:28-1:34 P.M.

SIGNATURE:

Miguel M. de la O, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary