

City of Miami

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



Meeting Minutes

Tuesday, August 16, 2016

10:00 AM

Lummus Park, 404 NW 3rd Street, Miami, FL 33128

Civil Service Board

*Vishwani Ramlal, Chief Examiner
Michael Dames, Board Member
Travis Lindsey, Board Member
Troy Sutton, Board Member*

PLEDGE OF ALLEGIANCE

In the absence of a Chair, Chief Examiner Ramlal chaired the meeting. The meeting was called to order at 10:02 am, with the Pledge of Allegiance. At commencement of the meeting, attendance was as follows:

Present: Member Dames, Chief Examiner Ramlal, Member Sutton and Member Lindsey

ADOPTION OF TODAY'S AGENDA

As there were no additions or revisions to the Agenda, a motion to adopt the Agenda as prepared resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A. APPROVING THE MINUTES OF:

Regular Meeting of August 2, 2016.

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

Aye: Lindsey, Ramlal, Sutton and Dames

B. PERSONNEL MATTERS

- B.1** Copy of a memorandum from Amy Klose, Director, Department of Human Resources, advising Mary Jo Phillips-McKently, CIS Desk Operator, of her return to her former classification. Mary Jo Phillips-McKently is being rolled back to Typist Clerk II, effective August 8, 2016. (NOTIFICATION)

NOTIFIED

- B.2** Copy of a memorandum from Chief Rodolfo Llanes, Director, Department of Police, requesting to extend the probationary period of Nikelya Dennis, Police Officer for one (1) additional month beyond August 12, 2016. (DISCUSSION)

Following appearances by Officer Dennis and Police Personnel Manager Qiana Sanders-Bell, the Board entered a motion to extend the probationary period as requested, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

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

- D.1** Copy of a Judgment from Daniel J. Alfonso, City Manager, concerning the

matter of Carlos Antunez, Police Officer, relative to his 40-hour suspension, effective June 1, 2009. It is ordered and adjudged that the decision of the Chief of Police to suspend Officer Antunez for 40-hours is hereby sustained. (NOTIFICATION)

RECEIVED AND FILED

- D.2** Copy of a letter from Kevin Kirwin, Director, Parks and Recreation Department, notifying Seymour Placide, Assistant Superintendent of Maintenance, of his 10-day suspension, effective August 5, 2016 and a copy of a request to appeal on his behalf from Osnat K. Rind, Attorney, Phillips, Richard & Rind, Esquire. A hearing has been scheduled for January 10, 2017. (NOTIFICATION)

RECEIVED AND FILED

- D.3** Copy of a letter from Daniel J. Alfonso, City Manager, notifying Tejuan Allison, Park Supervisor I, Department of Parks & Recreation, of his Termination, effective August 2, 2016. (NOTIFICATION)

NOTIFIED

- D.4** Copy of a letter from Daniel J. Alfonso, City Manager, notifying Sabine Raymonvil, Police Officer, of her Termination, effective August 9, 2016. (NOTIFICATION)

NOTIFIED

E. GENERAL ITEMS

- E.1** Copy of Findings of Fact concerning the Hearing of appeal on behalf of Adalgisa Rose, Project Accountant, relative to her 10-day suspension, effective January 11, 2016. (DISCUSSION)

Chair Ramlal asked if there were any objections to the Findings as drafted by Special Counsel. Hearing none, the Board entered a motion to approve the Findings and Recommendations in the matter of Adalgisa Rose, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

F. REPORTS

- F.1** Pending Hearings as of August 16, 2016. (NOTIFICATION)

PRESENTED

G. REQUESTS FOR HEARINGS

- G.1** Copy of a Request for Hearing pursuant to Civil Service Rule 16.1 & 16.2,

from Osnat K. Rind, Attorney, Phillips, Richard & Rind, concerning the interview process for the classification of Chief of Land Development.
(DISCUSSION)

Following presentation by Attorney on behalf of the Grievants, Kathleen Phillips, Phillips, Richard & Rind, P.A., and Assistant City Attorney Barbara Diaz, the Board entered a motion to grant the request, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

Following the vote, Member Dames asked if the Chief Examiner could conduct a preliminary investigation into the matter, which was seconded by Member Lindsey. The motion resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

H. TODAY'S HEARINGS

H.1 Hearing on behalf of Gustavo Alzate, Firefighter, relative to his Unsatisfactory Service Rating for the period ending June 30, 2016.

Since it had been quite a while since the Board held any Rule 13 - Unsatisfactory Service Rating (USR) hearings, the Executive Secretary advised of the Board's role in today's two USR hearings. She went on to explain that typically in a USR hearing, the employee will confirm that they understand what the unsatisfactory determination means, what they will do to bring their service up to par and how, etc. Then the department may come before the Board, explain how the employee obtained the rating and what they have done and plan to do in order to keep the employee and ensure that the next service rating is "Acceptable". The Board may then ask questions, and then make a determination.

Following discussion regarding the process, the Board entered into the USR hearing on behalf of the employee.

Chair Ramlal called the employee before the Board. Gustavo Alzate, Firefighter, appeared before the Board and in response to questioning by the Chair, confirmed that he had been notified of the unsatisfactory rating. Niorge Aragon, representing the Department of Fire-Rescue, appeared before the Board and responded to questioning by the Board Members. Following testimony, cause was shown satisfactory to the Board, that the employee should not be removed, suspended, or reduced in grade. Thereafter, the Board entered a motion to adopt the evaluation rating with no further penalty, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

H.2 Hearing on behalf of Keith Helmly, Firefighter, relative to his Unsatisfactory Service Rating for the period ending June 30, 2016.

Pursuant to Civil Service Rule 13, the Board entered into the Unsatisfactory Service Rating hearing on behalf of the employee.

Chair Ramlal called the employee before the Board. Keith Helmly, Firefighter, appeared before the Board and in response to questioning by the Chair, confirmed that he had been notified of the unsatisfactory rating. Niorge Aragon, representing the Department of Fire-Rescue, appeared before the Board and responded to questioning by the Board Members. Following testimony, cause was shown satisfactory to the Board, that the employee should not be removed, suspended, or reduced in grade. Thereafter, the Board entered a motion to adopt the evaluation rating with no further penalty, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

H.3

Hearing of appeal on behalf of Viona Browne-Williams, Police Officer, of her 80-hour suspension, effective May 2, 2016.

The Board entered into the Appeal hearing, pursuant to Rule 14, on behalf of Viona Browne-Williams, concerning her 80-hour suspension.

Appellant was represented by Eugene Gibbons, Esq., of Buschel Gibbons, P.A. The Department of Police was represented by Barbara Diaz, Assistant City Attorney (ACA), of the Office of the City Attorney. Appellant was alleged to have committed several violations as outlined in the charging document (Reprimand #16-037).

Opening statements were provided by the Department, Appellant deferred opening statements. Upon calling Appellant as the first witness, Attorney Gibbons objected, and the Board concurred advising that appellants are usually called to testify on their own behalf. ACA Diaz noted her objection to the Board's hesitancy to allow her to call the Appellant, and pointed the Board and Appellant's attorney to a recent Circuit Court ruling (Carlos Antunez) admonishing the Board regarding this issue, as well as Civil Service Rule 14.4(f), which compels the Appellant's testimony if called. Following discussion, ACA Diaz proceeded to present the department's case.

The following individuals were called as witnesses by the Department:

- 1. Jerry Garcia, Loss Prevention Officer for Navarro Discount Pharmacy. Questions were posed to witness Garcia by Member Dames.*
- 2. Steve Castell, Police Lieutenant, City of Miami Department of Police. Questions were posed to witness Castell by Members Dames, Lindsey, Sutton and Ramlal.*
- 3. Viola Browne-Williams, Appellant. Questions were posed to witness Browne-Williams by Members Lindsey and Dames.*

No witnesses were called on behalf of the Appellant.

Both sides provided closing arguments, then the Board entered into deliberations. Having reviewed and considered testimony, exhibits and argument of counsel, motions regarding the charges were entered and considered as follows:

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.1.2 - Members to Know Rules and Regulations, which resulted as follows:

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

Aye: Ramlal, Sutton and Dames

No: Lindsey

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.13.1 - Responsibility of Members, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.13.2 - Effort and Manner of Members, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant GUILTY of violating Departmental Order 1, Section 11.6.17.9 - Neglect, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.17.10 - General Incompetence, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.17.17 - Making a False Statement, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.17.31 - Failure to Take Necessary Action, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.18.2 - Duty Responsibilities, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. FAILED by the following vote.

Aye: Ramlal and Dames

No: Lindsey and Sutton

Following the failed motion, additional discussion took place. A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.18.2 - Duty Responsibilities, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal and Dames

No: Sutton

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.18/19 - Worksheets, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.28.2 - To Enforce, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Department Order 1, Section 11.6.28.3 - Members to Conform, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.41.2 - False Statement to Supervisor, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 1, Section 11.6.53.1 - Members to Be Truthful, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 11, Chapter 1.3.4 - Patrol-Primary Officer, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 11, Chapter 16.4.20 - Escaped Prisoners, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 11, Chapter 16.4.20.1 - Notify Dispatch, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 11, Chapter 16.4.20.2 - Initiate a Search, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 11, Chapter 16.4.20.3 - Notify a Supervisor, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Departmental Order 11, Chapter 16.4.20.4 - Prepare a Report, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Civil Service Rules and Regulations 14.2(d) - Willfully Violated Rules, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Civil Service Rules and Regulations 14.2(e)(2) - Serious Breach of Discipline, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

A motion was made to find Appellant NOT GUILTY of violating Civil Service Rules and Regulations 14.2(k) - Incompetent, Negligent, or Inefficient, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

The Board was presented with the Appellant's Official Personnel File, and a memorandum from the Executive Secretary summarizing same. Following review and argument of Counsel, the Board discussed a penalty recommendation to make to the city manager.

Commensurate with the infraction, considering Appellant's history and service, the Board entered a motion to recommend that the employee receive a REPRIMAND ONLY, in lieu of an 80-hour suspension, which resulted as follows:

Motion by Member Dames, seconded by Member Lindsey, to APPROVE. PASSED by the following vote.

Aye: Lindsey, Ramlal, Sutton and Dames

ADJOURNMENT

Breaks were taken between: 10:14 am - 10:20 am; and 12:19 pm - 12:43 pm. There being no further business before the Board, a motion was entered to adjourn the meeting at 2:47 pm, which resulted as follows:

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

Aye: Lindsey, Ramlal, Sutton and Dames

SIGNATURE:

Civil Service Board Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary