

# **City of Miami**

*City Hall*  
3500 Pan American Drive  
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[www.miamigov.com](http://www.miamigov.com)



## **Meeting Minutes**

**Tuesday, May 29, 2012**

**10:00 AM**

**Commission Chambers**

## **Civil Service Board**

*Gerald Silverman, Chairperson  
Sean Moy, Chief Examiner  
Carlos Lago, Board Member  
Lillie Harris, Board Member  
Christine Gomez, Board Member*

**PLEDGE OF ALLEGIANCE**

*The meeting was called to order at 10:02 a.m. The roll call at the commencement of the meeting was as follows:*

**Present:** Chairperson Silverman, Chief Examiner Moy, Member Harris and Member Gomez  
**Absent:** Member Lago

**A. APPROVING THE MINUTES OF:**

Regular Meeting of May 15, 2012.

**Motion by Chief Examiner Moy, seconded by Member Gomez, to APPROVE.**  
**PASSED by the following vote.**

**Aye:** Silverman, Moy, Gomez and Harris

**Absent:** Lago

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

**D.1** Copy of a letter from Keith A. Carswell, Director, Department of Solid Waste, notifying Robert Anderson, Trash Waste Collector Operator I, of his termination, effective May 14, 2012. (NOTIFICATION)

**NOTIFIED**

**D.2** Copy of a letter from Keith A. Carswell, Director, Department of Solid Waste, notifying Lawrence Clarke, Trash Waste Collector Operator I, of his termination, effective May 14, 2012. (NOTIFICATION)

**NOTIFIED**

**D.3** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Stephon McGill, Police Officer, of his 10-hour forfeiture, effective May 22, 2012. (NOTIFICATION)

**NOTIFIED**

**D.4** Copy of a letter from Chief Manuel Orosa, Director, Department of Police, notifying Josue Herrera, Police Officer, of his 10-hour forfeiture, effective May 22, 2012. (NOTIFICATION)

**NOTIFIED**

D.5 Copy of a letter from Daniel J. Alfonso, Director, Management and Budget Department, notifying Ajit Chhabra, Budget Analyst, of his 2-day suspension, effective May 11, 2012 and a copy of a request to appeal from Ajit Chhabra. A hearing of appeal will be scheduled in accordance with Civil Service Rules and Regulations. (NOTIFICATION)

**RECEIVED AND FILED**

**E. GENERAL ITEMS**

**F. REPORTS**

F.1 Pending Hearings as of May 29, 2012. (NOTIFICATION)

**PRESENTED**

**G. REQUESTS FOR HEARINGS**

**H. TODAY'S HEARINGS**

H.1 Hearing of appeal on behalf of Candace Jones, Police Officer, relative to her 10-hour forfeiture and 1-month suspension of take home vehicle, effective February 12, 2011.

*Prior to entering the hearing of Officer Candace Jones, Attorney Jon Kreger stated that the matter of public record requests is an issue that they seem to unfortunately visit frequently. He went on to say the fact is they make public record requests but receive inappropriate responses, (for example) he understands that a video of his client's accident exists, but despite their vigorous efforts to acquire the video, they have not been able to do so. He went on to say that he is aware that they might be able to see the video sometime today, but it does not take away the prejudice which they face by not being able to view it prior to the hearing. Attorney Kreger further stated pursuant to general discovery obligations and the Board's inherent power to regulate the proceedings, they move to dismiss the case, have the reprimand rescinded, the hours credited back to Officer Jones and that she receive a reasonable reimbursement for mileage and gasoline charges during the month that she was without her vehicle.*

*Chairman Silverman responded that the Board was not going to dismiss the case and asked Attorney Kreger if he wished to continue the hearing. Attorney Cohen responded in the affirmative and requested that the Board order that they be given a copy of the video because he believes that Detective Kennedy would be willing to release it.*

*Chairman Silverman asked opposing counsel for her position on the continuance request. ACA Richard responded that the timing of the continuance request is curious. She went on to say that this case was continued several times and has been pending for over a year. ACA Richard further stated that she spoke to Attorney Kreger last week and at no time did he mention he was missing any documents or a video. She stated that she just found out from Detective Kennedy that he gave a copy of the video to Officer Jones. ACA Richard went on to say that she is prepared to go forward with her case today; therefore, the continuance should be denied.*

*Following discussion, the Board entered a motion to DENY the employee's request for a continuance of her hearing which resulted as follows:*

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

**Aye:** Silverman, Moy, Gomez and Harris

**Absent:** Lago

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*Following the Board's approved motion to deny the employee's request for a continuance, The Board entered into the scheduled hearing of appeal on behalf of Candace Jones, the Appellant.*

*Janeen Richard, Assistant City Attorney (ACA), represented the Department.*

*Ronald J. Cohen and Jon Kreger, Attorneys at Law, represented the Appellant.*

*Opening statements were made by both sides. All witnesses were sworn in individually. Witnesses for the Department appeared in the following order:*

1. *Joseph W. Kennedy, Police Officer, City of Miami, Department of Police. Questions were posed by Board Members Harris and Moy during the testimony of Joseph Kennedy.*
2. *Manuel Gonzalez, Sergeant, City of Miami, Department of Police. Questions were posed by Board Member Harris during the testimony of Manuel Gonzalez.*
3. *Raul Herbello, Police Major, City of Miami, Department of Police. Questions were posed by Board Members Moy and Harris during the testimony of Raul Herbello.*

*The Department rested its case.*

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

*Candace Jones, Police Officer, City of Miami, Department of Police, testified on her own behalf.*

*The Appellant rested her case.*

*Officer Joseph W. Kennedy was recalled as a rebuttal witness on behalf of the Department. The City rested on rebuttal and the Appellant waived rebuttal.*

*The Board proceeded to closing arguments and both sides presented their positions on the facts of the case. Following final argument, Chairman Silverman stated that he did not think Officer Jones was guilty of the violations cited in the charging document. He asked if any other Members wished to state their positions on the case. Hearing none, the Board entered a motion to find the Appellant NOT GUILTY of all the following charges:*

- Charge #1, Departmental Order 1.11.6.56.6 - Operator Accountable
- Charge #2, Civil Service Rule 14.2(e)2 - Breach of Proper Discipline
- Charge #3, Civil Service Rule 14.2(e)3 - Loss/Injury to the City
- Charge #4, Civil Service Rule 14.2(l) - Careless/Negligent

*The motion resulted as follows:*

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

**Aye:** Silverman, Moy, Gomez and Harris

**Absent:** Lago

**H.2** Hearing of appeal on behalf of Viona Browne-Williams, Police Officer, relative to her 10-hr forfeiture, effective June 28, 2011.

*The Board entered into the scheduled hearing of appeal on behalf of Viona Browne-Williams, the Appellant.*

*Janeen Richard, Assistant City Attorney, represented the Department.*

*Jon Kreger, Attorney at Law, represented the Appellant.*

*Both attorneys presented opening statements.*

*All witnesses were sworn in individually. Witnesses for the Department appeared in the following order:*

1. *Selvan Ramjattan, Sergeant, City of Miami, Department of Police. Questions were posed by Board Members Moy and Harris during the testimony of Selvan Ramjattan.*

2. *Lazaro Ferro, Police Commander, City of Miami, Department of Police. Questions were posed by Board Member Harris during the testimony of Lazaro Ferro.*

*The Department rested its case.*

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

1. *Erol Stewart, Police Officer, City of Miami, Department of Police.*

2. *Viona Browne-Williams, Police Officer, City of Miami, Department of Police, testified on her own behalf. Questions were posed by Board Members Harris and Moy during the testimony of Viona Browne-Williams.*

*The Appellant rested her case and the Board proceeded to closing arguments. The attorneys presented their positions on the facts of the case. Following final argument, the Board entered a motion to find the Appellant NOT GUILTY of Charge #1, Departmental Order 1.11.6.1.2 - Knowledge of Rules, but it DIED FOR LACK OF A SECOND. The motion having died, the Board entered a motion to find the Appellant GUILTY of Charge #1 which resulted as follows:*

**Motion by Chairperson Silverman, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Silverman, Gomez and Harris

**No:** Moy

**Absent:** Lago

*The Board entered a motion to find the Appellant NOT GUILTY of Charge #2 - Departmental Order 1.11.6.17.16 - Not Properly Patrolling, but it DIED FOR LACK OF A SECOND. The motion having failed, the Board entered a motion to find the Appellant GUILTY of Charge #2, which resulted as follows:*

**Motion by Chairperson Silverman, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Silverman, Moy, Gomez and Harris

**Absent:** Lago

*The Board entered a motion to find the Appellant NOT GUILTY of Charge #3 - Departmental Order 1.11.6.28.3 - Members/Civilians to Conform, but it DIED FOR LACK OF A SECOND. The motion having failed, the Board entered a motion to find the Appellant GUILTY of Charge #3, which resulted as follows:*

**Motion by Chairperson Silverman, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Silverman, Gomez and Harris

**No:** Moy

**Absent:** Lago

*The Board entered a motion to find the Appellant NOT GUILTY of Charge #4, Departmental Order 4.2.4.6 - Notify of All Changes, which resulted as follows:*

**Motion by Chief Examiner Moy, seconded by Member Harris, that this matter be APPROVED. FAILED by the following vote.**

**Aye:** Moy and Harris

**No:** Silverman and Gomez

**Absent:** Lago

*The Board entered a motion to find the Appellant NOT GUILTY of Charge #5 - Departmental Order 11.2.3.2 - Advise of Location Change, but it DIED FOR LACK OF A SECOND. The motion having failed, the Board entered a motion to find the Appellant GUILTY of Charge #5, which resulted as follows:*

**Motion by Chairperson Silverman, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Silverman, Gomez and Harris

**No:** Moy

**Absent:** Lago

*The Board entered a motion to find the Appellant GUILTY of Charge #6, Departmental Order 11.2.3.5 - Authorization from Supervisor, which resulted as follows:*

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

**Aye:** Silverman, Moy, Gomez and Harris

**Absent:** Lago

*The Board entered a motion to find the Appellant NOT GUILTY of Charge #7- Departmental Order 11.2.4.2 - Patrolling Zones, but it DIED FOR LACK OF A SECOND. The motion having failed, the Board entered a motion to find the Appellant GUILTY of Charge #7, which resulted as follows:*

**Motion by Chairperson Silverman, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Silverman, Gomez and Harris

**No:** Moy

**Absent:** Lago

*The Board entered a motion to find the Appellant NOT GUILTY of Charge #8 - Civil Service Rule 14.2(e)2 - Breach of Proper Discipline, but it DIED FOR LACK OF A SECOND. The motion having failed, the Board entered a motion to find the Appellant GUILTY of Charge #8, which resulted as follows:*

**Motion by Chairperson Silverman, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Silverman, Gomez and Harris

**No:** Moy

**Absent:** Lago

*Following the Board's vote on all 8 charges and making a finding of guilt on some of the charges, the Board entered into the Penalty Phase of the Officer Browne-Williams' hearing. Her personnel file was reviewed by the Board, which revealed the Appellant has been employed by the City since June, 1989 and has received 20 commendations and 6 reprimands.*

*Lazaro Ferro, Police Commander, City of Miami, Department of Police, was recalled as a witness on behalf of the Department during the Penalty Portion of the Appellant's hearing. The Department rested its case and the Appellant waived rebuttal.*

*Both sides having waived closing argument, the Board entered a motion to recommend to the City Manager that the Appellant receive a reprimand only in lieu of the reprimand and 10-hour forfeiture imposed by the Department Director. The motion DIED FOR A LACK OF A SECOND. The motion having died, the Board entered another to recommend that the Appellant receive a reprimand and 5-hour forfeiture of earned overtime, but again the motion DIED FOR LACK OF A SECOND. The motion having failed, the Board entered a motion to uphold the reprimand and 10-hour forfeiture imposed by the Department Director which resulted as follows:*

**Motion by Chairperson Silverman, seconded by Member Gomez, that this matter be APPROVED. PASSED by the following vote.**

**Aye:** Silverman, Gomez and Harris

**No:** Moy

**Absent:** Lago

**H.3**

Grievance Hearing on behalf of Carlos Jimenez, Structural Engineer, pursuant to Rule 16.2, alleging a violation of Rule 12.1, as it concerns his layoff effective September 23, 2011.

*Michael A. Braverman, Attorney at Law on behalf of Carlos Jimenez asked that his client's case be continued and moved to the meeting of June 12 since he has has two cases scheduled on the same date.*

*Chairman Silverman asked the department's attorney if she had an objection to the*

*continuance requested by Attorney Braverman. ACA Richard responded in the negative. Following discussion, the Board entered a motion to grant the employee's request for a CONTINUANCE which resulted as follows:*

**Motion by Chief Examiner Moy, seconded by Member Harris, that this matter be CONTINUED. PASSED by the following vote.**

**Aye:** Silverman, Moy, Gomez and Harris

**Absent:** Lago

*The Chairman called for a motion to ADJOURN which resulted as follows:*

**Motion by Chief Examiner Moy, seconded by Member Gomez, to APPROVE. PASSED by the following vote.**

**Aye:** Silverman, Moy, Gomez and Harris

**Absent:** Lago

*Breaks were taken at 11:33-11:41 a.m.; 11:48-12:11 p.m.; and 1:15-1:30 p.m. The meeting adjourned at 3:18 p.m.*

**SIGNATURE:**

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**Gerald Silverman, Chairperson**

**ATTEST:**

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**Tishria L. Mindingall, Executive Secretary**