

City of Miami

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Meeting Minutes

Tuesday, July 28, 2009

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 10:16 a.m. The roll call for Board Members at the commencement of the meeting was as follows:

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

A. APPROVING THE MINUTES OF:

Regular Meeting of July 14, 2009.

The Board entered a motion to APPROVE the minutes of the regular meeting of July 14, 2009 which resulted as follows:

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

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

B. PERSONNEL MATTERS**C. MILITARY LEAVES OF ABSENCE****D. DISCIPLINARY MATTERS****E. GENERAL ITEMS****E.1**

Copy of Findings of Fact concerning the appeal hearing of Humberto Mijares, Building Inspector III, relative to his 3-day suspension, effective August 27, 2008. (DISCUSSION)

Chairman de la O asked the department's attorney if she had any objections or corrections concerning the findings of fact.

Diana Vizcaino, Assistant City Attorney (ACA), responded in the affirmative and referred the Board to page 1, last paragraph under the topic, CONCLUSION OF LAW. She went on to say that she could not recall if the name of the police officer that testified by phone was Eddie or Eldys.

Osnat K. Rind, Attorney at Law on behalf of Humberto Mijares, responded that the officer's first name is Eldys.

Chairman de la O stated that Special Counsel Everett will confirm the officer's correct name before finalizing the findings.

Chairman de la O asked the department's attorney if she had any other objections.

ACA Vizcaino referred the Board to page 2, paragraph 2, under the topic, FINDINGS OF FACT and stated that there was one witness, Officer Diaz, who did testify as to this accident so she did not agree with the sentence, "There were no witnesses presented with regards to the April 7, 2008 accident."

Cynthia A. Everett, Special Counsel to the Board, responded that [since she was not present at Mr. Mijares' hearing] she prepared the findings based upon the minutes and notes she received from her associate and that she did not recall there being any

indications that Officer Diaz witnessed the accident.

ACA Vizcaino stated that Special Counsel Everett was correct and suggested that the sentence be amended to read, "There were no EYE witnesses presented with regards to the April 7, 2008 accident." [NOTE: Wording in all CAPS indicate proposed language to be added or stricken]

Member Scarola asked ACA Vizcaino if she was referring to Mr. Mijares' preventable or non-preventable accidents.

Special Counsel Everett stated that they were referring to the April 7, 2008 accident for which Mr. Mijares received a citation.

Member Scarola stated that Mr. Mijares was involved in a vehicular accident for which a police officer was an eye witness; however, regarding the accident that occurred on April 7, 2008, Officer Diaz was not an eye witness, but only responded to the scene.

Chairman de la O asked Attorney Rind if she had an objection to changing "witness" to "eye witness".

Attorney Rind responded in the negative.

Chairman de la O stated that due to the agreement between both attorneys, paragraph 2 will be amended to read, "There were no eye witnesses presented with regards to the April 7, 2008 accident."

ACA Vizcaino stated that she had no other objections.

Chairman de la O asked Attorney Rind if she had any objections to the findings.

Attorney Rind responded in the negative.

Following discussion, the Board entered a motion to APPROVE the findings as amended which resulted as follows:

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

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

F. REPORTS

F.1 Pending Hearings as of July 28, 2009. (NOTIFICATION)

G. REQUESTS FOR HEARINGS

H. TODAY'S HEARINGS

H.1 Hearing of appeal on behalf of Clive Vernon, Police Officer, relative to his termination, effective December 1, 2008.

Teri Guttman-Valdes, Attorney at Law on behalf of Officer Vernon, stated that it was her understanding that her client was granted a continuance for the purpose of retaining legal counsel and his case was rescheduled. She asked that this case be continued a

second time because she was retained as legal counsel a couple of weeks ago. Attorney Guttman-Valdes stated that she had already met with the Executive Secretary for a new rescheduling date and that she would be most appreciative if the Board granted her request.

Chairman de la O asked opposing counsel if she had an objection to the continuance request.

ACA Vizcaino responded in the negative.

Member Dames asked how many continuances were granted regarding Officer Vernon's case.

Attorney Guttman-Valdes responded that only one continuance was requested and granted on behalf of her client.

Following discussion, the Board entered a motion to CONTINUE the appeal hearing of Officer Clive Vernon and charge the continuance to the employee, which resulted as follows:

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

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

H.2

Hearing of appeal on behalf of Viona Browne-Williams, Police Officer, relative to her 80-hour suspension, effective April 5, 2007.

Chairman de la O asked if the department was ready to proceed with its case today.

ACA Vizcaino responded that she was prepared to go forward; however, the parties entered into settlement negotiations. She went on to say that she was advised by Officer Browne-Williams and her attorney that they were in agreement with the department's proposal, [however] after releasing her witnesses, Officer Browne-Williams changed her mind about the agreement.

Member Cruz asked if the settlement agreement was in writing.

Attorney Rind responded that the settlement just happened this morning so there was nothing in writing. She went on to say that she is ready to go forward and perhaps the [department's witnesses] could return since they were released a short time ago.

Chairman de la O asked ACA Vizcaino if there was any reason she felt she could not get the officers to return for the hearing.

ACA Vizcaino responded that the officers were released approximately 15 minutes ago so she would try to make calls to reach them.

Chairman de la O stated that the Board was not going to prejudice the department for releasing its witnesses. He went on to say that if the Board has to continue this case, it would be charged to the department, but in the meantime the Board would take a recess and he would suggest that ACA Vizcaino use this time to try contacting her witnesses.

The officers arrived at approximately 10:32 A.M. while the Board was still in recess.

Following the recess, the Board continued with the matter concerning Officer Viona

Browne-Williams.

Chairman de la O stated that it was his understanding that there was a resolution of Officer Browne-Williams case.

ACA Vizcaino stated that a settlement was reached so there was no need to go forward with the hearing.

Member Dames asked what the settlement reached between the department and Officer Browne-Williams included.

ACA Vizcaino stated that Officer Browne-Williams agreed to receiving a reprimand only in lieu of the 80-hour suspension imposed by the department and that she would draft a formal settlement agreement some time today and forward a copy to the Civil Service Board.

No other discussion took place on this matter.

SETTLED : CASE WILL BE CLOSED AND REMOVED FROM THE BOARD'S DOCKET WHEN AGREEMENT IS RECEIVED.

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

H.3

Hearing of appeal on behalf of Frances Walters, Sanitation Inspector, relative to her 1 day suspension, effective July 24, 2007.

SETTLED : CASE WILL BE CLOSED AND REMOVED FROM THE BOARD'S DOCKET

ADJOURNMENT:

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

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

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

The meeting adjourned at 11:07 a.m. A break was taken at 10:22 a.m. and ended at 11:03 a.m.

SIGNATURE:

Miguel M. de la O, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary