



## **PERSONNEL BOARD**

### **MINUTES OF THE MEETING OF JULY 20, 2012**

Attending:	David Alschuler	Chairperson
	Gabriel Paez	Associate Member
	David Richardson	Associate Member
	Evette Phillips	Employee Member
	Ramiro J. Inguanzo	Secretary

Absent:	Michael Perlmutter	Vice Chairperson
	Moj Khaghan Danial	Associate Member
	Rosalie Pincus	Associate Member
	George Castell	Employee Member
	Christopher Diaz	Employee Member

David Alschuler, Chairperson, convened the Personnel Board meeting at 9:09 a.m.

#### **ITEM 1 – Approval of Minutes.**

Upon motion by Associate Member Paez, and seconded by Employee Member Phillips, the minutes of the May 18, 2012 Personnel Board meeting were approved.

#### **ITEM 2– Performance Evaluation Appeals Hearing – Edward Gonzalez, Fire Captain.**

Chairperson Alschuler asked that the City attorney present give a brief overview of the process. Senior Assistant City Attorney Robert Rosenwald, drew the Board's attention to Personnel Rule XIII, Performance Evaluations, Section 3 Appeals, which is the authority given to the Board to hear this appeal. Attorney Rosenwald explained to the Board that both Fire Captain Edward Gonzalez and representatives of the Fire Department would have an opportunity to speak before the Board. Attorney Rosenwald further explained to Board that after hearing from both parties the Board would have to vote on each of the factors being appealed by Fire Captain Gonzalez. During this vote the Board can leave scores as is or if they feel that Fire Captain Gonzalez should have been scored higher, pursuant to Personnel Rule XIII, Section 3, they can raise the score to a five. The performance evaluation being appealed is for the time period of January 31, 2011 to January 31, 2012.

Fire Captain Gonzalez was asked by Chairperson Alschuler if he was familiar with Personnel Rule XIII; Fire Captain Gonzalez stated he was. Fire Captain Gonzalez asked if the Board had the authority to remove the entire performance evaluation. Attorney Rosenwald advised Fire Captain Gonzalez that the Board did not have that authority. Secretary Inguanzo further clarified that under Personnel Rule XIII, Section 3, the Board only had jurisdiction to hear and possibly raise those factors that had been scored under a five or an overall score of less than fifty.

Fire Captain Gonzalez began by informing the Board that he was not afforded a midterm review. Fire Captain Gonzalez handed to the Board a copy of Standard Operating Guidelines (SOG) 102.03, Employee Performance Evaluations, where it states the following: *"At the six month point from the anniversary date of hire or promotion, the evaluating supervisor will review the expectations and provide feedback to the member on his progress. This will include whether the member is on target to meet expectations. If the member is not on target to meet expectations, a plan for remediation will be implemented by the evaluator and the evaluator's supervisor."*

Chairperson Alschuler went factor by factor and asked Fire Captain Gonzalez for any responses regarding the scores and why he disagreed.

The Board was particularly interested in Individual Performance Factor – Complete training to maintain certifications. In this factor Fire Captain Gonzalez was scored a four. When asked why he was scored a four he responded to the Board that he was unaware of why he received that score. Fire Captain Gonzalez informed the Board that he is responsible to maintain several certifications and that only one had lapsed during this evaluation period. The certification that lapsed was that of Fire Inspector, which is a three year certification and requires a forty hour recertification, either in person or online. Fire Captain Gonzalez was certified as Fire Inspector in the year 2007. His Fire Inspector certification expired December 2010. Fire Captain Gonzalez was recertified in May 2011. When asked why he had not recertified on time, Fire Captain Gonzalez explained to the Board that no psychical classes were available and that he had difficulty finding the time to attend training because of his workload. Fire Captain Gonzalez also explained to the Board that he had planned to bid out of the Fire Prevention Division in February 2011 therefore his certification would have only been lapsed for one month.

Fire Marshall Sonia Machen the Division Chief of the Fire Prevention Division and direct supervisor of Fire Captain Gonzalez came before the Board on behalf the Fire Department. Fire Marshall Machen provided the Board with a number of e-mails and examples of the type of feedback that she provides her subordinates leading to their annual performance reviews. Fire Marshall Machen informed the Board that although in his previous testimony to the Board Fire Captain Gonzalez had stated that he had not received a midterm evaluation she had been in constant verbal and written communications with Fire Captain Gonzalez regarding his performance.

Fire Marshall Machen explained that as a Captain in the Fire Prevention Division 100% of Fire Captain Gonzalez's duties require his Fire Inspector certification to valid at all times. Fire Captain Gonzalez was returned to the Fire Prevention Division in September 2010 and his certification expired in December 2010. Fire Marshall Machen further explained that since Fire Captain Gonzalez was back in Fire Prevention, his certification would have been paid by the City and he would be afforded the right to recertify during working hours.

Fire Chief Javier Otero briefly addressed the Board and explained which certifications a Firefighter is responsible to actually maintain. Fire Chief Otero stated to the Board that the position that Fire Captain Gonzalez was in had previously been done by a Lieutenant, a lower ranking officer. Finally, Fire Chief Otero also stated to the Board that by way of both verbal and written communications he felt that the Fire Marshall had complied with SOG 102.03.