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PERSONNEL BOARD
MINTUES OF THE MEETING OF AUGUST 10, 2012

Attending:	David Alschuler	Chairperson
	Gabriel Paez	Associate Member
	Rosalie Pincus	Associate Member
	David Richardson	Associate Member
	George Castell	Employee Member
	Evette Phillips	Employee Member
	Ramiro J. Inguanzo	Secretary
	Donald Papy	Chief Deputy City Attorney
Absent:	Michael Perlmutter	Vice Chairperson
	Moj Khaghan Danial	Associate Member
	Christopher Diaz	Employee Member

David Alschuler, Chairperson, convened the Personnel Board meeting at 9:08 a.m.

ITEM 1 – Approval of Minutes.
Upon motion by Associate Member Paez, and seconded by Associate Member Pincus, the minutes of the July 20, 2012 Personnel Board meeting were approved.

ITEM 2 – Item to discuss Personnel Rule VII, Section 9 (b) regarding Unclassified Employees Separations and Rights to return to previously held classified position(s).
Secretary Inguanzo explained to the Board that today's discussion rooted back to the case brought before the Board on September 16, 2011. In an arbitration case between the City and an employee represented by the Communications Workers of America (CWA), Local 3178, the Arbitrator in the case requested that the Personnel Board provide a definition for the term "separation." The Board voted to define that the term "separation", as was used in the City's Personnel Rules, was to apply to only "involuntary" actions and not to both involuntary and voluntary actions as the City's past practice had been. Secretary Inguanzo stated that before the Personnel Board today there are two employees that have asked to be heard on this matter: Captain Larry Bornstein from the Police Department and Division Chief John Jaremko from the Fire Department. Kathleen Phillips, attorney for the International Association of Fire Fighters (IAFF), Local 1510, stated that the IAFF union would also like to be heard on this matter.

Eugene Gibbons, attorney representing Captain Larry Bornstein, stated that he and his client believe that there has been an inequity and a misapplication of the Personnel Rules in relation

to Captain Bornstein's voluntary request for demotion from Captain to the rank of Lieutenant. Captain Bornstein stated that on July 27, 2012 he submitted his request for voluntary demotion to the rank of Lieutenant to Chief of Police Raymond Martinez. Captain Bornstein has been a Captain of Police for five and a half years and employed by the City for twenty-five and a half years. Captain Bornstein stated that he mentioned to Chief Martinez that the reason for his request to step-down from his current position as Captain was to have less responsibility and adjust his schedule by joining the rank of Lieutenant as he comes to the end of his career. Chairperson Alschuler asked Captain Bornstein if this request for demotion had anything to do with pension or benefits upon retirement. Captain Bornstein stated that any change in rank could have an impact to benefits. Chairperson Alschuler further asked if there are any financial benefits resulting from this request. Captain Bornstein explained that by him voluntarily demoting back to the rank of Lieutenant he would be eligible to work over-time, which he cannot do as a Captain of Police. Captain Bornstein further stated that this demotion would allow him to work a four-day work week instead of a five-day work week. Captain Bornstein explained to the Board that he was not before them to discuss his finances but that his reason for being there was to allow the City and Human Resources to acknowledge his request to be demoted. Associate Member Paez asked Captain Bornstein if he had accepted the position of Captain of Police voluntarily, to which Captain Bornstein responded yes. Captain Bornstein further stated that when he was asked to become a Captain of Police by Chief Carlos Noriega, it was explained to him that he would now be an at-will employee and that if something did not suit him in the rank of Captain, he could return to his previously held classified position.

Associate Member Richardson asked Captain Bornstein to briefly state why he was there and also to please introduce the gentlemen standing by his side. Captain Bornstein introduced Robert Jenkins former Fraternal Order of Police (FOP) president and current state FOP representative. Attorney Gibbons briefly summarized the purpose for them being there, by stating that an amendment to the rules had been processed without it going through the proper protocol and notification and that they are requesting that the Board direct the City's Human Resources Director to accept and make retroactive the request submitted by Captain Bornstein on July 27, 2012. Associate Member Richardson asked them to clarify what was the significance of the July 27, 2012 date. Captain Bornstein explained that the opportunity to enter into the three-year Deferred Retirement Option Plan (DROP) ends on August 1, 2012 and that after that date, the DROP is now a five year DROP.

Associate Member Richardson advised everyone that he was not ready to make a ruling today on a decision that was previously made by the Personnel Board. It was his understanding that at today's meeting they would only be discussing the definition of the term. Chief Deputy City Attorney Donald Papy explained that indeed Associate Member Richardson is correct that the only item that was before the Board was to discuss Personnel Rule VII, Section 9 (b) regarding Unclassified Employees Separations and Rights to return to previously held classified position(s), however, if the Board wanted to proceed with the discussion they could. Associate Member Richardson stated that he did not feel they were prepared to make any decisions at today's meeting.

Susan Potter Norton, attorney for the City, clarified that the Personnel Rules had not been amended. She informed everyone that what was done on September 16, 2011 as result of the questions that arouse from the arbitrator was defining the term "separation". The term separation was defined by the Personnel Board as only including involuntary actions. Attorney Potter Norton explained that since the only action that was taken on September 16, 2011 was defining the term "separation", a definition that was not constituted as an amendment to the Personnel Rules. She further stated that on the Personnel Board there are representatives from each of the employee groups who have an obligation to pass on the information discussed and voted upon at the meetings to the respective employees they are elected to represent. Attorney Potter Norton explained to the Board that just like in the case of Candida Hernandez (the CWA employee in the case which lead to the definition of the word separation) if the Captain is allowed to voluntarily demote and there are no vacancies in the rank of Lieutenant, this could impact other employees by bumping them out of their positions.

Adonis Garcia, IAFF President, spoke to the effect that he was offended by Attorney Potter Norton's implication that employees may be trying to "game" the system. IAFF President Garcia stated that he was at today's meeting to explain to the Board that it is unfair for people to placed in a box when they take an unclassified appointment and are not allowed to return to their previously held classified position, as is the case of the Division Chief that is with them today who is requesting to step-down.

A special meeting was tentatively scheduled for Wednesday, August 22, 2012, contingent of quorum by the Board and meeting the notice requirement deadlines. Chairperson Alschuler requested that briefs due by all parties be submitted to the City by Monday, August 16, 2012.

ITEM 3– Performance Evaluation Appeals Hearing – Sonia Louis, Crime Scene Technician I.

Chairperson Alschuler asked for those parties at the hearing regarding Crime Scene Technician Louis' performance evaluation appeals hearing to please introduce themselves for the record. Crime Scene Technician I Sonia Louis introduced herself for the record and at the hearing on behalf of the Police Department was Captain Richard Clements. The performance evaluation in question covers the period of April 11, 2011 to April 12, 2012.

Crime Scene Technician Louis was asked by Chairperson Alschuler if she was familiar with Personnel Rule XIII; Crime Scene Technician Louis stated she was. Chairperson Alschuler confirmed that all parties had received the information provided to the City by both the employee and the Police Department. Chairperson Alschuler explained to Crime Scene Technician Louis that each of the areas she is wishing to appeal would be discussed individually and she will be asked to state why she disagrees with the score given.

Crime Scene Technician Louis was asked if she had been provided a mid-term evaluation and she stated she had not received a written mid-term evaluation. The shift book indicated that she and her supervisor had initialed that one was on file; however, the actual copy was not in the shift book provided to Captain Clements. The Board inquired as to why Crime Scene

Technician Louis' supervisor was not in attendance at this hearing and Captain Clements explained that Crime Scene Supervisor J.C. Pedroso was unable to make it due to an emergency medical appointment.

The Board was particularly interested in Individual Performance Factor – Crime scene investigation through the following disciplines: paperwork details – to include the following: timely, accurate reports, proper inventory of all evidence collected and monthly statistical reports. In this factor Crime Scene Technician Louis was scored a three. When asked why she was scored a three she responded to the Board that she knew she need improvement in the area of report writing and that report writing in her previous employments with Boynton Beach and Palm Beach were different. Employee Member Castell asked Crime Scene Technician Louis if her supervisor had established expectations upon her hire and she said they had. The major differences that Crime Scene Technician stated were particular desire for specific terminology to be used within the reports. The Board asked what were the main issues being sent back on her reports and she stated that it was the form and format. Chairperson Alschuler stressed the importance that weighs on good report writing as criminal cases can rise or fall based on the content of said reports.

The following are the Board's voting results on each of the factors:

- **Individual Performance Factors**

Vote to raise the score to 5 from 4 in the category "Evidence collection-latent fingerprints, blood, hair, chemical processing, plaster cast, nail scrapings, gunshot residue test and crime scene sketching."
All members present voting against - **Fails 0 - 5**

Vote to raise the score to 5 from 3 in the category "Paperwork details – to include the following: timely, accurate reports, proper inventory of all evidence collected and monthly statistical reports."
All members present voting against - **Fails 0 - 5**

Vote to raise the score to 5 from 4 in the category "Develops rapport with people at all levels. Establishes and maintains cooperative relationships and deals with others in a factual manner. Encourages continual team improvements."
All members present voting against - **Fails 0 - 5**

- **City Wide Performance Factors**

Vote to raise the score to 5 from 4 in the category "Teamwork."
All members present voting against - **Fails 0 - 5**

Vote to raise the score to 5 from 4 in the category "Productivity."
All members present voting against - **Fails 0 - 5**

Vote to raise the score to 5 from 4 in the category "Communications."
All members present voting against - **Fails 0 - 5**

Vote to raise the score to 5 from 4 in the category "Dependability."
All members present voting against - **Fails 0 - 5**

Secretary Inguanzo recaptured each of the voting results and informed Crime Scene Technician Louis that her performance evaluation scores would remain the same.

ITEM 4 – Open Forum Discussion.

Associate Member Paez thanked the two employee members that are at today's meeting but has a concern with the attendance record of Employee Member Christopher Diaz. The Secretary will follow-up with the City Clerk's office regarding the attendance rules for elected board members.

Upon motion by Associate Member Pincus, and seconded by Associate Member Paez, and with all in favor, the meeting was adjourned at 11:25 a.m.

R. Inguanzo

Ramiro Inguanzo, Secretary