

**CITY OF NORTH MIAMI BEACH  
CIVIL SERVICE BOARD**

**MINUTES**

**REGULAR MEETING ON MONDAY, August 11, 2009**

❖ **ROLL CALL: 5:09 P.M.**

**PRESENT:**

Fortuna Smukler  
Jarret Gross  
Mamie Willis  
Levingston Ritchie  
John Francioni

**ABSENT:**

Darcee Siegel, City Attorney  
Beverly Hobson, Human Resources Director  
Audrea Hinds, Assistant Human Resources Director  
Esther Martinez, Civil Service Board Secretary

❖ **Reading of the Minutes**

**Approval of the February 23, 2009 Minutes:**

Motion to accept made by:

Member Willis

Seconded by:

Member Gross

The motion was carried unanimously.

❖ **Special Announcements**

Member Gross made a motion to nominate Member Smukler as the new Chairperson. The nomination was seconded by Member Francioni, the motion carried unanimously. The newly elected Chairperson thanked the board for her nomination.

The Civil Service Board Secretary introduced Council, Beth E. Spiegel as the new liaison to the Civil Service Board.

❖ **Old Business:**

- **Request for outside employment.**

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Marcel Fils Louissaint	Maintenance Worker	Public Services	Taxi Driver for Tropical Taxi

Mr. Fils Louissaint informed the board that upon approval from the board he will be working as a taxi driver for Tropical Taxi. Chairwoman Smukler asked Mr. Fils Louissaint the amount of hours he will work, and Member Francioni asked whether this job would interfere with his current job. Mr. Fils Louissaint advised the board that this new job will not interfere because he would only work about 6 hours on Saturdays and Sundays. Chairwoman Smukler asked about the amount of hours Mr. Fils Louissaint works for the city to which he answered 8 hours per day.

Motion to accept made by:

Member Gross

Seconded by:

Member Francioni

The motion carried unanimously.

❖ **New Business:**

○ **Request for Credit for Prior Service (Pedro Rojas, Jr.)**

Beverly Hobson, Human Resources Director explained to the board that Officer Pedro Rojas worked for the City of Opalocka and South Miami as a Police Officer is now requesting credit for prior combined service for 131 months. Member Gross welcomed Officer Rojas to North Miami Beach.

Motion to accept made by: Member Francioni  
Seconded by: Member Willis  
The motion carried unanimously.

○ **Request for Credit for Prior Service (Officer Kenneth Baker)**

Beverly Hobson explained to the board that Officer Baker has been employed with the City of North Miami Beach as a Police officer since May 22, 2009. He was employed with the Monroe County Sheriff's Officer for 66 months, and is now requesting credit for prior service.

Motion to accept made by: Member Gross  
Seconded by: Member Ritchie  
The motion carried unanimously.

○ **Request for Outside Employment**

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Edward Hill	Police Officer	NMB-Police Department	Construction /Muirfeild & Partners

The Civil Service Board Secretary advised the Chair that Officer Hill is currently working at different outside jobs. Chair Smukler inquired as to Officer Hill's current outside employment. Officer Hill stated that he currently has a mortgage broker's license and is selling life insurance. The new outside job consists of working in a management company that is trying to win a developer's contract. He would be working about 15 hours per week. Currently his other outside jobs are not productive; hence, he is not working as a mortgage broker or as a life insurance agent. Member Gross asked if Officer Hill had considered rescinding any of the prior outside employments. Officer Hill explained that all outside jobs are unstable therefore he would rather not cancel any prior permission because he does not know when any of them will become active. Member Gross asked Chief Rafael Hernandez if he had any concerns to which he responded no.

Motion to accept made by: Member Francioni  
Seconded by: Member Ritchie  
The motion carried unanimously.

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Pedro Rojas	Police Officer	NMB-Police Department	Instructor/MD College

Officer Rojas explained to the board that prior to working with the City of North Miami Beach he was also teaching at the Miami Dade College School of Justice. He is a firearms instructor, driving instructor, defensive tactics and general studies. He will work approximately 16 hours per month.

Motion to accept made by: Member Gross  
Seconded by: Member Francioni  
The motion carried unanimously.

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Richard Silberman	Police Officer	NMB-Police Department	Sales/Self Employed

Sergeant Silberman explained to the board that he will be working in sales and installation for security vaults; he would work approximately 10 hours per week because the sales are mostly internet based. Member Gross asked whether Sgt. Silverman will do any business with the city to which he responded no.

Motion to accept made by: Member Gross  
 Seconded by: Member Francioni  
 The motion carried unanimously.

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Richard C. Slusher II	Police Officer	NMB-Police Department	Teacher

Officer Slusher explained to the board that he is seeking to teach Criminal Justice under-graduate courses at Devry University. He is also requesting permission to be a police instructor at Miami Dade College. He will work 10 hours or less per week.

Motion to accept made by: Member Gross  
 Seconded by: Member Francioni  
 The motion carried unanimously.

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Juan Jurado	Police Officer	NMB-Police Department	DJ/Enjoy D Silence
Lino Diaz	Police Officer	NMB-Police Department	DJ/Enjoy D Silence
Nelson Camacho	Police Officer	NMB-Police Department	DJ/Enjoy D Silence

Detective Jurado explained to the board that his outside employment will consist of music production for venues such as the breast Cancer Society; this job will only be done during the weekends. Furthermore, Member Gross expressed his concern at the officers working at nightclubs.

Motion to accept made by: Member Gross  
 Seconded by: Member Willis  
 The motion was carried unanimously.

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Christopher Smith	Police Officer	NMB-Police Department	Part Owner/Sea Tow

Officer Smith explained to the board that he is part-owner of a sea towing company. Member Gross inquired whether Officer Smith's company will be doing any business with the city, and he answered no, his company services the Florida Keys.

Motion to accept made by: Member Francioni  
 Seconded by: Member Willis  
 The motion carried unanimously.

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
Gary Kogan	Police Officer	NMB-Police Department	Tutor/Self Employed

Sergeant Kogan explained to the board that he is starting a business as a private tutor. The job will consist of preparing Police Officers for promotional exams. He also explained that he is not currently tutoring, but upon the approval of the Civil service Board he will tutor police officers within the City of North Miami Beach and any other department. Chairwoman Smukler asked the City Attorney, Darcee Siegel if there was anything that

prohibited Sgt. Kogan from doing this. The City Attorney explained that Sgt. Kogan is not involved in the administration of the promotional exams; therefore, there is no conflict of interest.

Motion to accept made by:  
Seconded by:  
The motion carried unanimously.

Member Gross  
Member Francioni

<u>Employee Name</u>	<u>Current Position</u>	<u>Current Department</u>	<u>Position Desired</u>
George Festa	Police Officer	NMB-PD	Firearms Armorer/ Lexington Security Group

Officer Festa is seeking a position as a firearms armorer for a United States based company but working outside of the United States. He further explained that this will be a temporary job that will require him to be outside of the country for 60 days, and he will be using his own leave time while he is away.

Motion to accept made by:  
Seconded by:  
The motion carried unanimously.

Member Gross  
Member Francioni

o **Request for Lateral Transfer**

The Civil Service Board Secretary advised the board that Sergeant Mohamed Asim was originally scheduled to speak on behalf of Mrs. Kelly Watkins; however, he will not appear because he is out of town. Consequently, Mrs. Watkins' attorney, Joe Fazio will be representing her. Mr. Fazio presented the following arguments to the board:

- In October 2006, Mrs. Watkins gave birth to a pre-mature child who had immune deficiencies to the point that her doctor recommended the baby not be sent to a child care facility for at least the first two years of her life to avoid severe health problems.
- Because Mrs. Watkins was not financially able to hire a private child care giver she took brief leave from October 2006 to March 2007, and came back in a part-time status. Mrs. Watkins has been employed for 12 years as a Police Communications Officer (PCO), and has prior service at other police departments. She received a lateral transfer in 1997 and there was a Civil Service Board motion that was carried to allow such lateral transfer. This was done again in 2005 for PCO, Omar Yaber.
- In November 2008, Mrs. Watkins started to enquire about returning to a fulltime position. At around the same time the PCO II position was not officially announced, but it was disclosed to some members of the Police Department by Major Coffey and the Police Chief. Allegedly, the position would be an open competitive position and any city employee would be able to apply for the position.
- On July 13, 2009, Sgt. Asim wrote a memo to the city asking that Mrs. Watkins be allowed to take the exam for the PCO II position, and to be able to apply for the position thru a lateral transfer.
- The open competitive position was never materialized because the Personnel Director decided that she did not want it to be open-competitive.
- Mrs. Watkins believes she is being unfairly penalized because she had to take time off and was only able to come back part-time. She has been trying to regain full-time status since December 2008.
- In February 2009, Major Coffey sent an email to the Police Communication Officers stating that the position was open-competitive.
- In the Civil service Board rules Chapter 5 states that if a position is going to be announced it has to be subject to the approval of the board. The position was open-competitive as decided by the Chief and the Major because they felt that was suitable.
- Mrs. Hobson changed the announcement to promotional without the approval of the board to exclude Mrs. Watkins from applying, and only three other employees who are currently full-time are applying for the position.
- Mrs. Watkins does not want the position to be handed to her; she wants to apply and take the exam and to be considered.

- The rules state that in order to apply for a promotional position an employee must have passed the probation period. However, Mrs. Watkins has been a part-time employee for the past two years.
  - Mrs. Hobson will wait for the eligibility list to expire. Consequently, Mrs. Watkins was able to apply, take the exam for the PCO I position on July 14, 2009; she has been operating as a full-time PCO I since July 30, 2009.
  - There will be a rebuttal from Mrs. Hobson and PCO I Warner; Mr. Fazio asks if he will have time to answer the rebuttals and City Attorney Darcee Siegel answered yes.
  - Mrs. Watkins is not asking for her seniority to be reinstated, she is only asking for her probationary period to be waived. She has been a PCO I for 12 years and has always gotten satisfactory evaluations.
  - Allegedly Major Coffey submitted a memo at the end of July to the Civil Service Board stating that Mrs. Watkins previously transferred from a part-time PCO to a full-time employee without taking the exam, she was provisionally placed. Based on her experience, she deserves to have the probationary period waived.
  - Mrs. Watkins is asking the board to allow her to take the PCO II exam.
- **Request for Rebuttal to the Lateral Transfer (William Warner)**

Member Gross inquired about the memo that Major Coffey submitted to the board. The secretary advised the board that the memo was never submitted, therefore, it was not included in the package.

Mr. Bill Warner addressed the board on behalf of himself and two other PCO, and stated the following:

- This is not a personal attack; it's a matter of fairness to those who have been working full-time.
- On November 5, 2008, Major Coffey announced that the PCO II position will be available.
- The PCO department was supervised by a sworn police officer, and the position was not made available even after asking for it numerous times
- On November 6, 2008, Bill Warner met with Major Coffey to clarify a few items. One of those items was that the position be a promotional opportunity.
- Kelly Watkins was employed as a full-time PCO I from April 3, 1997 to October 6, 2006, at that time she tendered her resignation from the City to be effective October 6, 2006. She also removed all her pension funds from the general employees plan.
- On March 3, 2007, she returned as a part-time/contract worker, working 16 hours per week.
- Only after learning that the PCOII position would be open, Kelly showed interest in becoming a full-time employee with the purpose of taking the PCO II exam.
- On May 28, 2009 she became a part-time employee.
- On July 14, 2009 Kelly took the PCO I exam and passed it, and became a full-time employee on July 30, 2009, which was 12 days ago. She is now asking the board to waive her probationary period in order to make her eligible to take the test.
- The PCO staff feels that this is unfair to them who have wanted to take the test and have been waiting and they have not left the city. Myra Thompson has been employed full-time for 12 consecutive years. Nichole Camacho has been employed full-time for 8 consecutive; Bill Warner has been employed full-time for 11.5 years consecutively.
- Is it then fair for her to have the possibility to jump over the other PCO's to apply for the position?
- The IUPA contract in article 34 states that the standard probationary period for employees is 1 year and one of the options of the supervisor is to grant the employee a regular status.
- The PCO II job announcement states employees must be a regular status as a PCO I to apply for the position.
- Mr. Warner cited several sections from the Civil Service Board Rules & Regulations, 8.03.03; 2.02.44, 2.02.39; 6.08.02.02; Police Department Manual PD 17-90 Section 1.5.3; Lateral Job announcement Pg. 2.
- Mr. Warner compared the situation to that of Officer Sanders. He worked for the City several years ago, left and came back, but he is still required to complete his one year probation.

Member Willis asked Mr. Warner to clarify whether Mrs. Watkins had resigned or was on leave. Mr. Warner repeated that Mrs. Watkins turned in a written resignation to be effective October 6, 2006. Member Ritchie

asked Human Resources Director, Beverly Hobson whether the probationary period is generally waived. She responded that this is the first time a request of this nature had come before the board.

○ **Request for Rebuttal to the Lateral Transfer (Beverly Hobson)**

Mrs. Hobson provided the board with information from the Civil Service Board rules, and the IUPA agreement.

- Civil Service Board Rule 6.08.02. Mrs. Watkins did not come into her position thru an eligible list; she never took and passed a test, her predecessor approved and allowed her to get that position as a lateral transfer; she didn't approve or agree with it then and presently does not approve or agree with it. Member Francioni asked whether Mrs. Watkins had completed her probation at the time, and Mrs. Hobson said that she had but not by way of a Civil Service exam, she was never on an eligible list.
- Mrs. Watkins requested that the PCO II position be announced as "open-competitive" which would allow her to take the examination
- In response to Mr. Fazio's claim that Mrs. Hobson decided that the PCO II position be announced as open-competitive; this is not something that the Human Resources Department arbitrarily does.
- In the IUPA contract, article 34, promotional opportunities have always been announced as 'promotional' and it has never been 'open-competitive'.
- Mrs. Hobson has no ill feelings towards Mrs. Watkins.
- Once Mrs. Watkins expressed her desire to become a PCO I, Mrs. Hobson allowed the current eligibility list to expire to allow her to take the PCO I exam and accept her into that position. She was provisionally appointed, and if she took and passed the exam, she would be promoted as a PCO I.
- Mrs. Watkins is requesting for her probationary period to be waived. She is also requesting that she be given credit for prior service. The latter request cannot be granted because the Civil Service Rules state that an employee must complete at least 3 months of service before he/she can request credit for prior service.
- Such requests are not fair to the rest of the employees who have been working in the city without interruptions.
- The request to have her salary adjusted; she must wait at least three months before she can request this. She also received an ongoing salary differential around June 23, 2009 for working out of class; however, she is not consistent with her work, she must work between 30-35 hours in order to receive the differential and there have been weeks in which she has not met the guidelines, yet continues to benefit from the salary differential.
- All of the requests that Mrs. Watkins is making go against the Civil Service Board rules and regulations and are therefore unfair.

Member Willis asked Mrs. Hobson to clarify whether full-time or part-time employees or both could request credit for prior service. Mrs. Hobson stated that only full-time employees who have been employed for at least three months and within a year can request to be granted credit for prior service.

Member Gross clarified that there are three issues at stake:

1. Request for credit for prior service
2. Whether the job announcement should be "promotional" or "open-competitive"
3. Request to waive the probationary period.

Member Gross asked the City Attorney whether the employees have the option to take leave time and completely separate employment, to which both the City Attorney and Human Resources Director responded that there is leave available for employees. Employees are allowed to take 12 weeks and in some cases leave is extended to avoid complete separation. Member Gross wanted to make sure that this option was available to Mrs. Watkins, but she chose not to take advantage of such option. When she returned to work for the City, she came back as a part-time/contract employee. The City then allowed the current PCO I list to expire to give her the opportunity to test for that position.

Chairwoman Smukler asked Mrs. Hobson to give more details regarding the situation with Omar Yaber. Mrs. Hobson provided the minutes from a Civil service Board meeting in 2004. Officer Armando Sotero on behalf

of the Police Department requested that Omar Yaber, Community Service Officer be transferred to a PCO I to fill an open position. Originally Mr. Yaber took and passed the PCO I exam, however, due to budget constraints, Mr. Yaber was asked to assume the CSO position. Due to the need for PCO's it was requested that Mr. Yaber be transferred back to the PCO position and for the exam to be waived since he had already taken the exam. Both member Francioni and Member Gross asked if Mr. Yaber had met his probation period, and Mrs. Hobson stated that he had. Another employee had a similar situation, she left and came back, took the exam a second time and was placed as a PCO I. In essence, the situations are not the same.

Mr. Joe Fazio explained to the board that he was representing Mrs. Watkins because she had been trying to bring this issue to the board since March 2009. She was told by Mrs. Hobson that since she was not governed by the Civil Service she then did not have any standing to come before the board. Chairwoman Smukler informed Mr. Fazio that the board has not met since February 2009. Mr. Fazio requested that Mrs. Watkins be given the opportunity to explain why she completely separated from the City.

Mrs. Watkins explained to the board members the following:

- October 2005 she was out on FMLA due to a personal illness.
- November 17, 2005 she had a premature child
- On February 2006 the 12 weeks of FMLA were exhausted
- She was granted leave of absence from Chief Loizzo from February 2006 to August 2006.
- On October 2006 she tendered her resignation to Chief Loizzo and asked whether she could stay as a contract employee. Chief Loizzo agreed to this petition.
- She did not work for a few months; therefore, Sgt. Asim asked her to take a drug test to which she agreed and that is when her hire date was changed.
- It was never her intention to leave the city completely.
- She had to choose for the well-being of her daughter and a full-time position with the City of North Miami Beach.
- She took a test in 1992 for PCO but decided to work for the City on North Miami Police Department instead.
- She has been denied the right to speak before the board several times.
- She would like the board to make the decision.

Member Gross asked Mrs. Watkins whether she in fact withdrew all her funds from the City's pension account. She claims that she was under the impression she had to do so because she was a part-time employee. She also claims that she has no knowledge on the pension rules and regulations so she did what she thought was necessary.

Mrs. Hobson reiterated the fact the City allowed for the eligible list to expire so Mrs. Watkins would have the opportunity to become a full-time employee. The real issues are waiving her probationary period and giving her credit for prior service. Member Gross stated that when Mrs. Watkins is eligible to be granted credit for prior service, the board will have no objection to such request. The issue is waiving her probationary period.

Mr. Fazio referred to Civil Service Board rules chapter 10 and submitted an email from Major Coffey that stated that the position was to be announced as open-competitive. Mrs. Hobson stated that the Department never determines what type of job announcement will be advertised, this is left up to the Chief Examiner, which in this case is the Human Resources Director, Beverly Hobson.

Member Francioni asked how many times the PCO I position had been advertised since between 2006 and the present, and Mrs. Hobson responded that this is advertised at least once a year.

Mr. Joe Fazio reiterated that Mrs. Watkins' petition is to waive her probationary period since she has already proven that she can perform the duties of the job. Mr. Fazio also referred to the memo dated February 19, 2009 from Major Coffey which stated that the position was going to be announced as "open-competitive". In March 2009, Mrs. Hobson informed Mrs. Watkins that the position would be announced as "promotional". Mrs. Watkins then requested to speak to the board. She requested to be laterally transferred to the PCO I to avoid the probationary period.

Mrs. Hobson explained again that the Chief Examiner is the only person who decides how a position will be announced. Furthermore, the Departments do not have the authority to decide how a job is announced; this is the duty of the Human Resources Department.

Member Gross asked Mrs. Siegel whether the Civil Service Board had granted the Human Resources Department the authority to decide how a job is announced, and she said yes. Mr. Fazio asked that a record be produced to show that this was officially done; Mrs. Siegel answered that such record will be researched. Furthermore, Member Gross stated that the issue of credit for prior service should be addressed at the end of 3 months as it is done with other officers.

Mr. Fazio asked that Major Coffey state to the board the kind of exemplary employee Mrs. Watkins is, however, Member Francioni stated that this was unnecessary because the issue at hand was not the employee's performance, and Member Gross agreed that the issue was not to evaluate her work ethics.

IUPA President, Mike Pons asked the Civil Service Board to please follow the rules that are in place in order to make a decision.

Mrs. Siegel stated that the PCO I eligible list that was allowed to expire was created in May 2008; therefore, Mrs. Watkins could have taken the exam at the time to become a full-time employee.

Motion to deny the request made by:  
Seconded by:  
The motion carried unanimously.

Member Gross  
Member Francioni

Mr. Fazio requested if available to be forwarded a copy of the minutes of the meeting in which the Human Resources Director was appointed the Civil Service Board Chief Examiner.

o **Request for Review of Content of Sergeant's Examination**

Member Francioni clarified to the Board members that he was not questioning the content of the exam; he is asking whether the exam is fair or not. He wants to make sure that there are no conflicts of interest, the new sections of the exam etc.

Beverly Hobson, stated that as previously discussed, the Human Resources Department always determines the contents of exams and asked that Mrs. Susan Thornton address the board. Member Francioni asked that Mrs. Thornton explain the process of the exam, the way in which the assessors are chosen.

Mrs. Thornton assured that neither the Chief of Police nor any of the City of North Miami Beach staff members will have any communication with the potential assessors. They will come from different agencies outside of Miami-Dade County. There will be 2-3 assessors for each scenario; they are asked whether any acquaintance exists between the assessors and the candidate. Furthermore, there is a consensus scoring. In short, they assessors are chosen by Mrs. Thornton, the assessors sign a waiver stating that there is no conflict of interest, and there is consensus scoring. She further explained that she could do a different type of process in which the examination is entirely a written process; the candidates' number is on top of each paper, and it is scored outside of the city by people she has hired. If the process is completely a written format, the writing skills carry a heavier weight on the scoring. However, on a scenario based assessment, the oral component is much more important. Should there be a breach with one of the assessors his or her scoring will be eliminated and they will only count the results from the remaining two assessors.

Member Francioni reminded the board that this assessment has never been a part of the process; it has always been a written exam only. This was done for the Captains' exam but never for a Sergeant's position.

Mrs. Thornton stated that she has worked with the City of Pembroke Pines, Plantation, Homestead, Lantana, and Palm Beach County.

Member Francioni asked if he could be provided with something that could explain the process a bit better, and Mrs. Thornton stated that there is a candidate orientation that explains the process.

Motion to accept the request made by:  
Seconded by:  
The motion carried unanimously.

Member Francioni  
Member Willis

o **Nominations for Civil Service Board Employee Vacancies**

The Civil Service Board Secretary, Esther Martinez informed the board that both employee representatives John Francioni and Levingston Ritchie term expired in June 2009. This is the first meeting since February 2009; therefore, it was the first opportunity to present this issue to the board. It was asked that the new Chairman allow the Human Resources Department to hold elections to choose two new board members. The current members could be re-elected, however, the positions still have to be advertised and the employees have to be given the opportunity to vote.

The City Attorney advised the board that the employee representatives will be allowed to serve on the board until new members are elected.

It was also recommended that the board meeting start at 5:15pm, this will give the employees who finish work at 5pm to come to the meetings on time.

Motion to accept the request made by:  
Seconded by:  
The motion carried unanimously.

Member Francioni  
Member Ritchie

o **Open Discussion**

Janice Coakley requested that an additional employee representative be elected. The City Attorney explained that according to the rules, in order to have a quorum there needs to be four individuals, of those, three have to be citizens which are appointed by the City Council. In order to change the rules, the process is as follows:

- Bring the issue before the board
- The board will make a recommendation to make changes to the rules
- This will be taken to the City Council for final approval.

As of today, there are 5 members who are appointed by the Council, 2 members are employee representatives (one elected by AFSCME and the other by IUPA members). Mrs. Coakley stated that she will request that more employee representatives serve on the board. She wants to make sure that we continue to follow the rules and not make exceptions.

**Motion to adjourn the meeting was made by:**  
**Seconded by:**  
**The motion was approved unanimously**

**Member Smukler**  
**Member Francioni**

**Meeting adjourned at 7:02pm**

Submitted by:

Esther M. Martinez  
Secretary to the Board