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MEETING

2001 OCT -9 AM 11:09

CIVIL SERVICE BOARD

Wednesday, June 20, 2001

First Floor, Conference Room 100, 135 North Second Avenue, Phoenix

Present: Wendy Larsen, Chair; John Perkins, Vice Chair; Dr. Jerry Eisen, Member; Kay Jerin, Member; and Jose Gabriel Loyola, Member

Also Present: Lera Riley, Personnel Director; Executive Secretary; Elizabeth R. Terrazas and Patty Matus, Recording Secretary; Harold Merkow and Janet Feltz, Hearing Officers; Karen Gillen, Board's attorney; Mike Hamblin and Joni Chambers, Assistant City Attorneys; James Contreras and Tim Norton appellants; Dale Norris, representative for Mr. Contreras, Mr. Leeper, and Mr. Norton; Abe Arvizu, AFSCME 2384, Michael Napier, Melissa Kendall, Offices of Michael Napier, PC; Danny Boyd and Jake Jacobsen, PLEA; Michael Mayer, News Channel 15; Sherry Norton, Kent Komadina, Michelle Molinario, Frank Contreras, Joey Contreras, Sonya Contreras-Estrada, Dolly Ybarra, Armida Contreras, George Contreras, Sophie Bejarano, Albert Contreras, Laura Contreras, Katie Contreras, Joe Contreras, Jamie Contreras, Elizabeth Waters, Renee Hefling, Tahlia Contreras, Sara Leon, Amanda Peterson, Dave Dehority, and Rick Sanders, Daniel Courtney, Sgt. Johnson, and Officer Abril, observers

The meeting was called to order at 12:02 p.m. by Ms. Larsen, Chair.

Introduction of Attendees – Everyone in the audience was asked to introduce himself or herself.

Approval of Minutes – On the motion of Dr. Eisen, seconded by Ms. Jerin and carried, the minutes of the May 10, 2001 meeting were approved as written. (Ms. Larsen and Mr. Loyola abstained from voting, as they were not present for the May 10th meeting).

Approval of Minutes – On the motion of Dr. Eisen, seconded by Mr. Loyola and carried, the minutes of the May 31, 2001 special business meeting were approved as written. (Ms. Jerin and Mr. Perkins abstained from voting, as they were not present for the May 31st meeting).

Kelly Kienzle v. City of Phoenix and the Civil Service Board – Ms. Gillen, Board's attorney, addressed the Board with a brief update on the status of this case.

Report and Recommendation of Hearing Officer –

David B. Leeper – The Board reviewed the report and recommendation of Hearing Officer Harold Merkow following the private hearing to appeal the dismissal of David B. Leeper, permanent Police Officer (POLICE), which was effective October 3, 2000. Mr. Leeper was dismissed for being absent from his assigned beat, squad area, and precinct without the knowledge or permission of

his supervisor; attending a personal meeting with his attorney while on duty; falsifying his location by entering a doctor's office as his status in his MDT, when he was at his attorney's office; telephoning his estranged wife and threatening to kill her during an acquaintance's wedding; and making a threat to a male acquaintance by telephone.

The Hearing Officer had concluded that the employee did violate Personnel Rule 21b3, but did not violate Personnel Rules 21b1, 21b2, and 21b18. The discipline imposed was found to be excessive. The Hearing Officer recommended that the dismissal be reduced to a 160-hour suspension.

Executive Session – 12:05 p.m. - On the motion of Dr. Eisen, seconded by Ms. Jerin and carried, the Board voted to go into executive session to discuss this case, because the appeal hearing was held in private. Mr. Norris and Ms. Chambers addressed the Board regarding the Hearing Officer's report. Mr. Leeper was not present for today's meeting.

Open Session – 12:45 p.m.

Mr. Perkins made a motion to accept the findings, conclusions, and recommendation of the Hearing Officer; motion died for lack of a second.

Mr. Loyola made a motion, seconded by Mr. Perkins, to accept the findings, conclusions, and modify the recommendation of the Hearing Officer, to reflect that a 240-hour suspension be imposed. Dr. Eisen, Ms. Jerin, and Ms. Larsen voted Nay and motion failed to carry.

On the motion of Dr. Eisen, seconded by Ms. Jerin and carried, the Board voted to modify the findings, conclusions, and recommendations of the Hearing Officer, and ordered that the dismissal be sustained – motion carried 3-2 (Mr. Loyola and Mr. Perkins voted Nay). The Board made these findings based on the evidence received, comments from both parties, and a determination that there was no need to further review the transcripts of this case.

James H. Contreras– The Board reviewed the report and recommendation of Hearing Officer Janet Feltz following the public hearing to appeal the dismissal of James H. Contreras, permanent Police Officer (POLICE), which was effective November 9, 2000. Mr. Contreras was dismissed for entering and remaining inside a nightclub for unauthorized reasons in violation of off-duty work regulations; and for sitting at a table next to the stage to watch the dancers perform table dances, simulate sex acts, and commit public sexual indecency with the patrons. On another occasion while working off-duty in full uniform at the nightclub, he grabbed a citizen and threw him head-first off the entrance stairway landing over six steps to the parking lot asphalt, causing facial injuries which required medical treatment and sutures; pushed a citizen in the chest without apparent provocation or legal justification; failed to notify a supervisor of these incidents; falsely arrested two citizens for trespassing; made a false departmental report on the arrest of these two citizens; and gave false or

misleading information during the investigation of these incidents and criminal assault.

The Hearing Officer had concluded that the employee did violate Personnel Rules 21b1, 21b2, 21b3 and 21b16, but did not violate Personnel Rule 21b18. The discipline imposed was found to be appropriate. The Hearing Officer recommended that the dismissal be sustained.

Mr. Norris and Mr. Hamblin addressed the Board regarding the Hearing Officer's report. Mr. Contreras was present for today's meeting. This matter was held in open session, because the hearing was a public hearing.

Consult with Board Counsel – 1:35 p.m. – On the motion of Dr. Eisen, seconded by Mr. Loyola and carried, the Board voted to go into executive session to consult with their counsel.

Open Session – 1:50 p.m.
Further discussion ensued. The Board viewed a videotape of surveillance of the appellant's activities at the nightclub.

Consult with Board Counsel – 2:35 p.m. – On the motion of John Perkins, seconded by Dr. Eisen and carried, the Board voted to go back into executive session to consult with their counsel.

Open Session – 2:45 p.m.

On the motion of Mr. Perkins, seconded by Dr. Eisen and carried, the Board voted to accept the findings, and conclusions of the Hearing Officer. The Board ordered that the dismissal be sustained - motion carried 4-1. (Mr. Loyola voted Nay) The Board made these findings based on the evidence received, comments from both parties, and a determination that there was no need to further review the transcripts of this case.

Timothy D. Norton – The Board reviewed the report and recommendation of Hearing Officer Janet Feltz following the private hearing to appeal the dismissal of Timothy D. Norton, permanent Police Officer (POLICE), which was effective November 9, 2000. Mr. Norton was dismissed for failing to notify his supervisor of an incident after he caused injuries to a subject he arrested and released; entering and remaining inside a nightclub for unauthorized reasons while in a police capacity off duty and in full uniform; engaging in inappropriate conduct by kissing a female employee at the nightclub; watching a wet T-shirt contest and female contestants performing table dances, simulated sex acts, and public sexual indecency with bar patrons; failing to notify a supervisor after observing another officer cause injuries to a citizen; and lying during investigation.

The Hearing Officer had concluded that the employee did violate Personnel Rules 21b1 and 21b3, but did not violate Personnel Rules 21b16 and 21b18.

The discipline imposed was found to be excessive. The Hearing Officer recommended that the dismissal be reduced to a 160-hour suspension.

Executive Session – 2:55 p.m. - On the motion of Mr. Perkins, seconded by Dr. Eisen and carried, the Board voted to go into executive session to discuss this case, because the appeal hearing was held in private. Mr. Norris and Mr. Hamblin addressed the Board regarding the Hearing Officer's report. Mr. Norton was present for today's meeting.

Open Session – 3:32 p.m.

Dr. Eisen made a motion, seconded by Mr. Perkins, to accept the findings, conclusions, and recommendation of the Hearing Officer. Ms. Jerin, Ms. Larsen, and Mr. Loyola voted Nay and the motion failed to carry.

Dr. Eisen made a motion, seconded by Mr. Loyola, to accept the findings, conclusions, and modify the recommendation of the Hearing Officer, to reflect that a 240-hour suspension be imposed - motion carried 5-0. The Board made these findings based on the evidence received, comments from both parties, and a determination that there was no need to further review the transcripts of this case.

Withdrawal and Settlement of Appeals

Danny L. Trimble - The Board reviewed the settlement reached between Mr. Trimble and the Public Works Department. Mr. Trimble agreed to withdraw his appeal. The City agreed to reduce the 40-hour suspension to a 16-hour suspension, and to reimburse Mr. Trimble for 24 hours' pay.

Joseph Loredo - The Board reviewed the settlement reached between Mr. Loredo and the Human Services Department. Mr. Loredo agreed to withdraw his appeal. The City agreed to reduce the 8-hour suspension to a written reprimand, and to reimburse Mr. Trimble for 8 hours' pay.

Scheduled Hearings - The Board made note of the following scheduled hearings:

EMPLOYEE	DISC TYPE	DATE OF APPEAL	HEARING DATE	HEARING OFFICER
M. Aldaco	Dism	Appeal rec'd 11/30/00 Continuance 1/22/01 2 nd Day continuance 5/9/01	4/24/04 4/24/01 5/14/04 6/28/01	Merkow
R. Hunt	Susp	Appeal rec'd 1/24/01	5/2/01	Merkow
R. Tamburo II	Susp	Appeal rec'd 8/2/00 Continuance 11/14/00 Continuance 11/28/01 Continuance 2/28/01	4/1/00 4/12/00 3/7/04 5/30 & 5/31	Merkow
K. Frizzell	Susp	Appeal rec'd 4/13/01	6/4/01	Feltz

S. Aguilar	Susp	Appeal rec'd 4/24/01	6/12/01	Feltz
C. Keever	Susp	Appeal rec'd 4/18/01	6/21/01	Merkow
H. Hughry	Susp	Appeal rec'd 5/7/01	6/22/01	Merkow
R. Lacher	Susp	Appeal rec'd 4/24/01	6/25/01	Merkow
E. Martinez	Dism	Appeal rec'd 12/22/00 Continuance 4/13/01 Continuance 5/15/01	4/25-26/01 5/15-16/01 6/25 & 6/28 - 29/01	Feltz
M. Mortenson	Dism	Appeal rec'd 5/11/01	7/9/01	Feltz
L. Taylor	Dism	Appeal rec'd 5/4/01	7/10/01	Feltz
P. Garcia	Susp	Appeal rec'd 3/1/01 Continuance 5/15/01 Continuance 5/25/01	5/21/01 7/6/01 7/10/01	Merkow
J. Cole	Susp	Appeal rec'd 5/22/01	7/20/01	Merkow
L. Fuduloff	Susp	Appeal rec'd 3/23/01	5/29/01 8/1/01	Merkow
E. Almiral	Dism	Appeal rec'd 5/18/01	Pending	
M. Addison	Susp	Appeal rec'd 1/25/01	5/17/01 Pending	Feltz
T. Latham III	Susp	Appeal rec'd 8/24/00 Continuance 1/8/01	4/17/01 4/10/01 4/19/01 Pending	Merkow
P. Brown	Susp	Appeal rec'd 12/29/00 Continuance 3/15/01	4/3/01 Pending Settlement	Merkow
F. Hernandez	Dism	Appeal rec'd 2/16/01 Continuance 4/3/01	4/19/01 Pending Settlement	Merkow
R. Laidlaw	Susp	Appeal rec'd 6/15/00 Continuance 9/27/00	9/28/00 Pending	Merkow

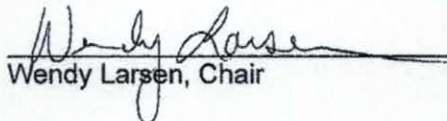
Confirm Date and Time for Next Business Meeting – The Board confirmed the date and time for the next business meeting as Thursday, July 12, 2001, at 1:00 p.m., in the first floor Conference Room 100 of the Personnel Building, 135 North 2nd Avenue, Phoenix.

There being no further business, the meeting was adjourned at 3:36 p.m.



Lera Riley, Personnel Director
Executive Secretary, Civil Service Board

APPROVED:



Wendy Larsen, Chair