



CITY OF OAK HILL

SPECIAL MEETING

5:00 P.M. – COMMISSION CHAMBERS - CITY HALL

JULY 18, 2010

AGENDA

- A. OPENING
- B. DISCUSSION AND DECISION OF THE PERSONNEL BOARDS RECOMMENDATION REGARDING SARGENT MANUEL PREZE
- C. DISCUSSION AND DECISION REGARDING THE POLICE DEPARTMENT.
- D. CITIZEN PARTICIPATION
- E. COMMENTS/CONCERNS FROM COMMISSION MEMBERS
- F. ADJOURNMENT



CITY OF OAK HILL
234 South U. S. Hwy #1
Oak Hill, Florida 32759
(386) 345-3522

PERSONNEL BOARD MEETING

Minutes

June 28, 2011
7:00 P.M.

I. CALL TO ORDER

II. ROLL CALL

Jimmy Goodrich, Present; Jan McGee, Present; Willie Wood, Present; Mike Arman, Present; Jeff Bracey, Present

III. APPROVAL OF MINUTES JUNE 14, 2011.

A motion was made by Jan McGee and seconded by Willie Wood to approve the minutes of June 14, 2011. The motion carried 5-0 with voting as follows: Jimmy Goodrich, Yes; Jan McGee, Yes; Willie Woods, Yes; Mike Arman, Yes; Jeff Bracey, Yes.

IV. DISCUSSION OF GRIEVANCE FILED BY SGT. MANUEL N. PEREZ AGAINST CHIEF DIANE YOUNG'S RECOMMENDATION OF TERMINATION

Chair Person Jimmy Goodrich had asked Sgt. Perez's attorney Mr. Hood if they had submitted a notarized copy of his grievance as the original submitted grievance was not notarized. Mr. Hood did submit a notarized copy of the original grievance and an additional notarized affidavit containing alleged complaints prior to the start of the meeting on this day.

The board members then proceeded to present questions to Chief Young. The board members then proceeded to listen to Mr. Hood's fact findings on the case. The board recessed at 8:17 to 8:26. The board then presented questions to Sgt. Perez.

Mr. Goodrich asked Sgt. Perez if he wished to proceed with his grievance and the additional allegations contained in his affidavit that was presented on this day and not brought up to the board when he first filed his grievance. Sgt. Perez and Mr. Hood then stepped outside, When they returned they requested that Chief Young write a statement stating that Sgt. Perez records would show that all the IA's were unfounded and that his records are cleared of the IA charges. The Chief agreed. The Board then addressed Sgt. Perez's alleged charges stated in his grievance and additional affidavit against Chief Young. Sgt. Perez agreed to submit a letter stating that he will not pursue any of the allegations against Chief Young up to and including the date of June 29, 2011, now or in the future. Both parties agreed to the letters.

A motion was made by Jan McGee and seconded by Mike Arman that the grievance filed by Sgt. Perez, where as Chief Young had the right to do an IA and that after reviewing the allegations and facts that the board found the allegations to be unfounded and that both parties agree that a statement releasing all charges against Sgt. Perez and a statement releasing all charges and allegations against Chief Young would be summated by both parties.

The motion carried 5-0 with voting as follows: Jimmy Goodrich, Yes; Jan McGee, Yes; Willie Woods, Yes; Mike Arman, Yes; Jeff Bracey, Yes.

V. COMMENTS AND QUESTIONS FROM BOARD MEMBERS

VI. ADJOURNMENT 9:40pm

AFFIDAVIT OF SERGEANT MANUEL N. PEREZ

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

BEFORE ME, the undersigned authority, this day personally appeared SERGEANT MANUEL N. PEREZ, who, being first duly sworn on oath, deposes and says:

1. Affiant is a Sergeant with the Oak Hill Police Department.
2. The statements made herein are based upon Affiant's personal knowledge.
3. From the time Affiant began working at the Oak Hill Police Department, Chief Diane Young repeatedly asked Affiant out for drinks after work, dinners, lunches, and to ride Affiant's motorcycle over the weekend.
4. Chief Diane Young grabbed Affiant's butt, which was witnessed by Affiant's girlfriend.
5. Chief Diane Young repeatedly requested Affiant to come into her office for official meetings and would proceed to put her hands on Affiant, hug Affiant, and bury Affiant's face into her cleavage.
6. Chief Diane Young would repeatedly pinch Affiant's cheeks and call Affiant her "little dimples" and her "Mexican jumping bean."
7. Chief Diane Young repeatedly rubbed the back of Affiant's head and moaned out loud.
8. Affiant told Chief Diane Young that Affiant felt uncomfortable with her advances and requested her to stop, but Chief Diane Young failed and refused to stop.
9. Affiant provided advance notice to Chief Diane Young of his decision to take time off for the birth of his daughter pursuant to the Family Medical Leave Act ("FMLA").

10. Because Affiant refused to reciprocate to Chief Diane Young's advancements, Chief Diane Young retaliated and refused to give Affiant time off for the birth of his daughter.
11. Affiant was a victim of racial discrimination in the workplace.
 - a. Affiant was called a "Spic."
 - b. Affiant was told "Spic" jokes.
 - c. Affiant was ridiculed because of his accent and ethnicity.
 - d. People within the Oak Hill Police Department spoke Spanish to Affiant, mocking and mimicking his accent and word choice.
12. Affiant repeatedly told Chief Diane Young of the racial discrimination Affiant was experiencing in the workplace; Chief Diane Young failed and refused to do anything.
13. When Affiant became aware that Chief Diane Young had fixed a ticket, Affiant confronted Chief Diane Young. The original ticket is attached hereto and incorporated herein as Exhibit "A."
14. On a ride-along with City Commissioner, Ron Engele, Affiant told Ron Engele of Affiant's concerns with Chief Diane Young.
15. Chief Diane Young indicated to Affiant that she knew Affiant had spoken with Ron Engele and her actions exhibited that she was unhappy with the conversation.
16. Affiant confronted Chief Diane Young of other inappropriate conduct occurring within the Oak Hill Police Department.
17. Immediately after Affiant confronted Chief Diane Young of the ticket issue and other inappropriate conduct occurring within the Oak Hill Police Department, Chief Diane Young initiated two (2) Internal Affairs Investigations against Affiant.

18. On May 3, 2011, Affiant filed a written Notice with Laura Goodearly, Oak Hill City Clerk, of Affiant's intent to bring an action against the City of Oak Hill and Chief Diane Young. A true and correct copy of the Notice being attached hereto and incorporated herein as Exhibit "B."

19. All facts and claims stated herein are correct and true.

Sworn to and subscribed before me on this 2nd day of June, 2011.

Tracy M. Mimoso

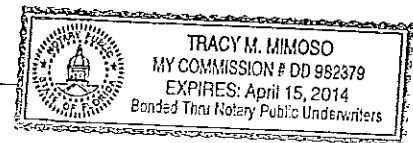
Notary Public - State of Florida

Name: _____

Personally known ☒ Produced Identification ☐

Type of Identification Produced _____

Manuel N. Perez
SERGEANT MANUEL N. PEREZ



FLORIDA UNIFORM TRAFFIC CITATION

4603-EWP

CHECK
DIST X

COUNTY OF Volusia		<input type="checkbox"/> (1) F.H.P. <input type="checkbox"/> (2) P.D. <input type="checkbox"/> (3) S.O. <input type="checkbox"/> (4) OTHER	
CITY (IF APPLICABLE) Daytona Beach		AGENCY 1111	
IN THE COURT DESIGNATED BELOW THE UNDERSIGNED CERTIFIES THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE THAT ON			
DAY OF WEEK	MONTH	DAY	YEAR
11	11	11	1111
NAME (PRINT) FIRST		MIDDLE	LAST
John		Michael	Smith
STREET 1111 1111 1111			
CITY DAYTONA BEACH STATE FL ZIP CODE 32127			
TELEPHONE NUMBER	DATE OF BIRTH	MO	DAY
111-1111	07	10	1955
DRIVER LICENSE NUMBER	STATE	CLASS	CDL LICENSE
1113017197151111	FL	Y	N
YR. VEHICLE	MAKE	STYLE	COLOR
1	Ford	Mustang	Black
VEHICLE LICENSE NO.	TRAILER TAG NO.	STATE	YEAR TAG EXPIRES
11111111		FL	11/11
UPON A PUBLIC STREET OR HIGHWAY, OR OTHER LOCATION, NAMELY			
FL 1111 1111 1111 1111			

DID UNLAWFULLY COMMIT THE FOLLOWING OFFENSE. CHECK ONLY ONE OFFENSE EACH CITATION.

☐ UNLAWFUL SPEED ☐ MPH SPEED APPLICABLE ☐ MPH

☐ INTERSTATE ☐ 4-LANE HWY WITH 20 FT. MEDIAN OUTSIDE BUS. OR RES. DIST.

☐ CARELESS DRIVING ☐ SAFETY BELT VIOLATION ☐ EXPIRED DRIVER LICENSE

☐ VIOLATION OF TRAFFIC CONTROL DEVICE ☐ IMPROPER OR UNSAFE EQUIPMENT ☐ FOUR (4) MONTHS OR LESS

☐ VIOLATION OF RIGHT-OF-WAY ☐ EXPIRED TAG ☐ MORE THAN FOUR (4) MONTHS

☐ IMPROPER CHANGE OF LANE OR COURSE ☐ SIX (6) MONTHS OR LESS ☐ NO VALID DRIVER LICENSE

☐ IMPROPER PASSING ☐ MORE THAN SIX (6) MONTHS ☐ DRIVING WHILE LICENSE SUSPENDED OR REVOKED

☐ CHILD RESTRAINT ☐ NO PROOF OF INSURANCE ☐ FAILURE TO STOP AT A TRAFFIC SIGNAL

☐ DRIVING UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES, CHEMICAL OR CONTROLLED SUBSTANCES, DRIVING ACTUAL PHYSICAL CONTROL WHILE IMPAIRED, OR DRIVING ACTUAL PHYSICAL CONTROL WITH UNLAWFUL BREATHE/BLOOD/URINE ALCOHOL LEVEL B4

OTHER VIOLATIONS OR COMMENTS PERTAINING TO OFFENSE:

1111 1111 1111

<input type="checkbox"/> AGGRESSIVE DRIVING	IN VIOLATION OF STATE STATUTE	SECTION 318.20	SUB-SECTION 1
CRASH	PROPERTY DAMAGE	INJURY TO ANOTHER	SERIOUS BODILY INJURY TO ANOTHER
YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
<input type="checkbox"/> CRIMINAL VIOLATION, COURT APPEARANCE REQUIRED, AS INDICATED BELOW. <input type="checkbox"/> INFRACTION, COURT APPEARANCE REQUIRED, AS INDICATED BELOW. <input checked="" type="checkbox"/> INFRACTION WHICH DOES NOT REQUIRE APPEARANCE IN COURT.			

4603-EWP

CHECK
DIST X

COURT INFORMATION

DATE 11/11/11 TIME 11:11

COURT 1111

LOCATION 1111

EXHIBIT

A

ARREST DELIVERED TO

I AGREE AND PROMISE TO COMPLY AND OBEY TO THE CHARGES AND INSTRUCTIONS SPECIFIED IN THIS CITATION. I WILL FULFILL THE CITATION AND PLEAD TO MY ARREST. I UNDERSTAND MY SIGNATURE IS NOT AN ADVERTISEMENT OF GUILT OR WAIVER OF RIGHTS. IF I ACCORDING TO THIS CITATION, I CONTACT THE CLERK OF THE COURT.

X SIGNATURE OF VIOLATOR 1111

RANK SIGNATURE OF OFFICER 1111

HSMV 75231 (Rev. 02/05)

BADGE NO. 1111

ID. NO. 1111

TROOP UNIT 1111

May 3, 2011

Sent via Email
laurag@oakhillfl.com

Laura Goodearly
Oak Hill City Clerk
234 S US Highway 1
Oak Hill, FL 32759-9647

Ms. Goodearly,

Please be advised that I am filing an official grievance and request for a Civilian Review Board of the allegations and Notice of Proposed Termination being brought against me by Chief Diane Young.

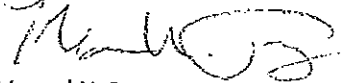
Today in a meeting with Chief Young I was advised of an additional allegation and Internal Affairs Investigation concerning the DAVID System that she intends to bring against me. Chief Young stated that she wanted to start that particular Internal Affairs interview immediately after she served me notice. When advised that I needed more notice/time to prepare for the interview, Chief Young stated, "That I was to be available because she is paying me to be available and that if I was not going to be available she was going to withhold my pay." In accordance with the Police Officer's Bill of Rights, I am entitled to advanced notice prior to being interviewed regarding an investigation initiated against me.

Furthermore, please be advised that I have begun the process of filing a complaint with the EEOC and this is your written notice of my intent to bring an action against the City of Oak Hill, and Chief Diane Young regarding, Whistle Blower Retaliation, FMLA (Family Medical Leave Act) Violations, Sexual Harassment, and Racial Discrimination.

My claim is being filed with:

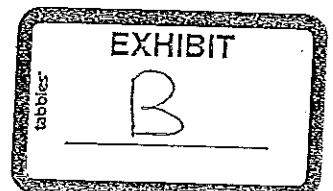
EEOC-Miami District Office
2 South Biscayne Blvd Suite 2700
Miami, FL 33131

Respectfully,



Sgt. Manuel N. Perez

cc: Mary Lee Cook, Commissioner
Ron Engele, Commissioner
Linda Hyatt, Commissioner
Kathy Bittle, Commissioner
Diane Young, Chief of Police
Scott Simpson, City Attorney



HORACE SMITH, JR., P.A.
CHARLES D. HOOD, JR.
JEFFREY E. BIGMAN
CLAY L. MEER
TAMARA R. GAINES
ADAM J. KOFMAN
AMANDA J. JACOBSEN
SHEILA M. ENNIS
NINA V. RAWAL

Of Counsel:
LARRY R. STOUT
WILLIAM E. LOUCKS
JEFFREY P. BROCK
HARRY G. MCCONNELL
FRANK J. YONG



Commitment to Excellence
SMITH HOOD BIGMAN

444 SEABREEZE BOULEVARD
SUITE 900
DAYTONA BEACH, FL 32118

Send all correspondence to:
POST OFFICE BOX 16200
DAYTONA BEACH, FL 32115

TELEPHONE: (386) 254-6876
FACSIMILE: (386) 257-1834

www.daytonaflaw.com

June 30, 2011

VIA EMAIL ONLY: youngdc@flcjn.net

Chief Young
Oak Hill Police Department

RE: File Name : Sergeant Manuel Perez, et al. v. City of Oak Hill and Chief Diane Young
Our File No. : 21093.0001

Dear Chief Young:

Pursuant to the understanding reached at the Personnel Board meeting on June 28, 2011, this letter confirms that Sergeant Perez looks forward to a constructive positive working relationship with you and all members of the City of Oak Hill government and agrees to release you and the City of Oak Hill from any liability for acts or omissions to act that occurred prior to June 29, 2011 subject to the condition that the City of Oak Hill does the following:

1. The City of Oak Hill will issue a press release directed to all press, radio and television media announcing that all charges against Sergeant Perez have been fully investigated and were determined to be unfounded; and
2. Sergeant Perez' personnel file will be amended to show that he is an outstanding employee and that all internal affair investigations, allegations, or claims for any acts or omissions to act prior to June 29, 2011 are deemed unfounded and that Sergeant Perez is an employee in good standing with no disciplinary issues.

I look forward to your letter outlining the proposed agreement at your earliest convenience. If you have any questions, modifications, or suggestions regarding the enclosed, please feel free to call. Thank you for your professionalism and cooperation.

With best personal regards, I am,

Very truly yours,

Charles D. Hood, Jr.

CDH/cnc

cc: Sergeant Manuel Perez (By email)

SCOTT E. SIMPSON, P.A.

KOREY, SWEET, MCKINNON, SIMPSON & VUKELJA

Attorneys and Counselors at Law

*Robert Kit Korey, P.A.
Jeffrey C. Sweet
Noah C. McKinnon, Jr., P.A.
Scott E. Simpson, P.A.
David A. Vukelja, P.A.
Abraham C. McKinnon
Jarett A. de Paula*

*Suite A, Granada Oaks Professional Building
595 West Granada Boulevard
Ormond Beach, Florida 32174
(386) 677-3431-Telephone
(386) 673-0748-Telefax
Website: Ksmvslaw.com*

July 5, 2011

Charles D. Hood, Esquire
444 Seabreeze Boulevard, Suite 900
Daytona Beach, FL 32118

Sent via E-Mail and U.S. Mail

Re: Your Client: Manuel Perez

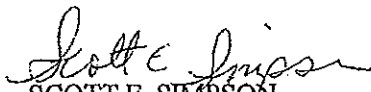
Dear Dave:

I have been forwarded your letter of June 30, 2011 regarding your client Manuel Perez and have discussed the contents of your letter with Chief Young. According to Chief Young, there was no discussion during the Personnel Board Meeting about any press release. The City will not agree to any press release on this issue. This is an employment matter that should not be discussed in the public and any publicity of this matter was not caused by the City.

As for your request regarding your client's Personnel file, there will be no changes. The City will designate the two pending Internal Affairs Investigations (IA #2011-05 and #2011-06) as unsubstantiated and the IAs will be closed. Furthermore these IAs will not be in your client's personnel file.

Finally it is my understanding that your client is willing to release the City from any claims, including the claims in the affidavit that was submitted to the Personnel Board, in exchange for the City closing the IAs as unsubstantiated. I have enclosed a General Release for your client to execute. Upon receipt of this General Release, the IAs will be closed and your client can return to work.

Very truly yours,


SCOTT E. SIMPSON
SES/ss
Enclosure

GENERAL RELEASE

Manuel Perez, individually and on behalf of his heirs, executors, administrators and assigns, for and in consideration of the City of Oak Hill not pursuing his termination of employment based on IA #2011-05 and #2011-06 and other good and valuable consideration, the sufficiency of which is mutually acknowledged by all parties, release, remise, and forever discharge the City of Oak Hill, and its employees, agents and assigns, both in their corporate and individual capacity, from any and all claims, demands, debts, sums of money, bills, covenants, contracts, controversies, agreements, promises, suits and actions, in law and in equity, which may have accrued, or for which the undersigned may have or had on or by reason of any matter from his date of commencing employment with the City through the date of execution of this General Release. This specifically includes, but is not limited to, any claim that could be asserted based on the facts asserted in his June 28, 2011 affidavit.

In the event Manuel Perez or any heir, executor, administrator or assign asserts a claim against any party released herein, the defending party shall be entitled to recover any attorney fees and costs incurred in asserting the rights and defenses of this release.

This release is executed on _____, 2011

WITNESS

MANUEL PEREZ

Print: _____

Print: _____

State of Florida
County of Volusia

The above instrument was acknowledged before me on _____, by

Notary Public
Notary Public, State of Florida

[Notarial Seal]
My commission expires: _____

Personally known _____; or produced identification _____

Type of identification produced: _____

State of Florida
County of Volusia

SCOTT E. SIMPSON, P.A.

KOREY, SWEET, McKINNON, SIMPSON & VUKELJA

Attorneys and Counselors at Law

*Robert Kit Korey, P.A.
Jeffrey C. Sweet
Noah C. McKinnon, Jr., P.A.
Scott E. Simpson, P.A.
David A. Vukelja, P.A.
Abraham C. McKinnon
Jarett A. de Paula*

*Suite A, Granada Oaks Professional Building
595 West Granada Boulevard
Ormond Beach, Florida 32174
(386) 677-3431-Telephone
(386) 673-0748-Telefax
Website: Ksmvslaw.com*

July 14, 2011

Charles D. Hood, Esquire
Tamera Gaines, Esquire
444 Seabreeze Boulevard, Suite 900
Daytona Beach, FL 32118

Sent via Facsimile: 386-257-1834
and U.S. Mail

Re: Your Client: Manuel Perez

Dear Dave and Tamera:

This is to confirm my message to Tamera this afternoon, wherein I indicated that the word "unfounded" may be substituted for the word "unsubstantiated".

I have spoken with Chief Young and she is planning to have Mr. Perez work the 6am shift on Monday. Therefore, upon execution of the necessary documents, please have Mr. Perez contact Chief Young to confirm.

Very truly yours,


SCOTT E. SIMPSON
SES/ss

cc: Laura Goodearly, Clerk, City of Oak Hill
Diane Young, Chief of Police, City of Oak Hill

Laura Goodearly

From: Scott E. Simpson [simpson66@bellsouth.net]
Sent: Thursday, July 14, 2011 2:08 PM
To: Diane Young
Cc: Laura Goodearly
Subject: Perez

Diane

I talked with perez's attorney. He is ok with everything as long as we mark the IA files as unfounded instead of unsubstantiated. To me this the same thing, but let me know if this is ok.

Scott E. Simpson