

**City of Coral Gables, Florida
Trial Board
June 1, 2022
City Commission Chambers
405 Biltmore Way, Coral Gables, FL**

Trial Board Members

Joseph DeMaria
Sandra Ferrera, via Zoom
Robert Martinez, Chair
Alberto Perez
Tony Newell

City Staff

Yolande Davis, Deputy City Clerk
Cristina Suarez, Deputy City Attorney

Speakers

David Winker, Counsel for the Plaintiff
Jessica Keller, Plaintiff
Denise Heekin, Outside Counsel for the City

Start Time: 4:00 p.m.

Chairman Martinez: So, we are calling the meeting of the Trial Board of the City of Coral Gables to order. Good afternoon, everybody. Let's take a roll call, if we could please.

Deputy City Clerk Davis: Board Member DeMaria

Mr. DeMaria: I'm here.

Deputy City Clerk Davis: Board Member Newell.

Mr. Newell: Here.

Deputy City Clerk Davis: Board Member Perez.

Mr. Perez: Here.

Deputy City Clerk Davis: Chairman Martinez.

Chairman Martinez: Present. Thank you very much. I understand that there is one board member, Sandra Ferrera, who is ill, and she e-mailed us this afternoon, so I'll turn it over to our counselor, Ms. Suarez.

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Deputy City Attorney Suarez: Yes. Ms. Ferrera advised the Clerk's office that she is ill and asked if she could appear and participate via Zoom. As long as there is a quorum in the room, which we have a quorum and the board makes a finding that her illness constitutes an extraordinary circumstance, she can participate via Zoom.

Chairman Martinez: Thank you very much. The Chair will entertain a motion, any discussion? All in favor, please indicate by saying aye.

Mr. DeMaria: Motion.

Mr. Newell: Second.

All: Aye.

Chairman Martinez: Any oppose? The motion carries unanimously, so we can now welcome Ms. Ferrera to our meeting.

Deputy City Attorney Suarez: Can we confirm that she's on Zoom, Madam Clerk and make sure she has the authority to unmute herself.

Deputy City Clerk Davis: Not as yet.

Deputy City Attorney Suarez: She's not on Zoom yet?

Deputy City Clerk Davis: No.

Chairman Martinez: When she comes on, she'll be welcome. The next item on the agenda, we all have agendas before us, the next item on the agenda is the approval of the minutes of the last meeting. We all received a trial transcript, it looks like a trial transcript, of the meeting that was held on March 10th of this year. So, its not really minutes, its actually even better than minutes, it's the full transcript. At this point in time, I'll entertain a motion.

Mr. DeMaria: Motion.

Mr. Newell: Second

Chairman Martinez: Any discussion? All those in favor please indicate by saying aye.

All: Aye.

Chairman Martinez: Anybody opposed? It carries unanimously. So now we can go to the next order of business. And where we left off, we were in the course of doing a threshold review, according to the rules of the City of Coral Gables, and at that point in time we heard from both sides extensively, and the board asked the parties to try to resolve it amicably among yourselves

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and then come back to us and report what occurred. So, this point in time what I'd like to do is, I'd like to give sides an opportunity to tell us the status, those discussions. Let me start of with the plaintiff.

Mr. Winker: Good afternoon, David Winker on behalf of the plaintiff. I'm going to turn the mic over to her, she is going to give an update. We actually asked for this meeting to be postponed. We received an offer on Friday that we are going through. I think that we are going to be able to settle this, but I'd like for my client to be able to give a little, she has a short statement she'd like to give an update from her perspective, if that would be okay with you guys.

Chairman Martinez: Sure. Go right ahead, Ms. Keller.

Ms. Keller: Good afternoon, Jessica Keller. Today is National Say Something Nice Day and I want to start by thanking the board for displaying the utmost professionalism that I did not expect. For years I've been part of an environment, a negative environment, and I expected more of the same, so you are commended for that. I want to recognize my former colleagues in this room tonight, who are simply doing their jobs and I have no animosity towards you whatsoever. I know the challenges you face, some very similar to my own when I worked for the city, and my attorney David Winker, who has shown patients and for that I'm appreciative. The board asked for additional information at the last meeting and I did not submit the requested information until I knew we were headed back to Trial Board without a deal last night, and now the City Manager objects to the information I provided upon request. I did not object when the city did not have their information ready for submission on March 7th when they requested an extension. I'm exhausted. This matter has consumed me. This matter is one of 20 to 30 things, tasks for everyone else that's here today. As you noted, back in March, I was a loyal employee to the city for just over nine years. I have a pristine personnel file. I was well liked among my peers. What I expect in return is the security my pension offered about \$3,000 a month after I retire in 16 years. I'm 46 years old, not some young director just started out my career. I'm at a point where I actually have to consider retirement, something that was so foreign to me when I started working for the City of Coral Gables. I was optimistic when the city reached out to the discuss settling shortly after the March 10th hearing. The optimism quickly faded when I got the offer. The present-day value of my pension exceeds \$350,000 unless the city can demonstrate to me otherwise. The city countered again and its still was not close. Finally, the Chair suggested mediation. The city approached me with a lump-sum payment that I could actually consider. The city finally had my attention but I received this offer Friday afternoon before a long weekend. I need time to digest what I'd been offered. I need to speak with my financial advisor and the first appointment I could get is actually tomorrow. I asked the city to reschedule this meeting and they were only interested in rescheduling if I agreed to last offer in exchange for waiving all of my rights. I have a simple fix today that I'm suggesting. I suggest the Trial Board just reinstate me. I'll agree to resign on Monday. I'll be fully vested on June 4th, ten years after I was hired. This is the cleanest way to achieve my goal. We can discuss what I will exchange in return. What I would also like is a protocol be put in place to protect employees from bullying, harassment and intimidation by their customers. No one should have to endure what I've endured and continue to endure. The Commission recognizes this is an ongoing problem. Vice Mayor Mena initiated a discussion at the May 10th Commission meeting because the City Manager and City Attorney had been targeted by the very same people who

targeted me. He discussed how it impacts us and our families and it does impact our families. Thank you.

Chairman Martinez: Thank you. From the city.

Ms. Heekin: Good afternoon. We have engaged in settlement discussions. We have offered the full authority that the City Manager and City Attorney have together in order to settle this case. They did ask to postpone this hearing yesterday, I believe it was, and the city, we told them we were willing to do it if its for purposes of working out language in the settlement agreement. But if its for purposes to go ahead and negotiate anymore money as part of that settlement, then we are not willing to go ahead and postpone. We want to move forward and get a ruling on it. We cannot offer any more money that we've already offered without going to the City Commission, and we don't think that would end favorably. So what we have on the table is a really good amount, and I think it's a fair amount. I think it covers Ms. Keller. Its not just as easy as she says, go ahead and reinstate her and she suddenly vested. She's rolled out \$144,000 from her pension that were her contributions. They've been rolled out. Those got to go back in. Money has to go back in for the contributions for the last year if something like that were to happen. So its not just so easy you can wave a wand and say, hey, you're reinstated you get your pension. We are still interested in settling this matter, but we have put all that we have on the table, and if we can't come to an agreement, then we ask that you go ahead and make a ruling or decide you want to have an evidentiary hearing and let's move on with this. We've tied up a lot of time.

Chairman Martinez: I am admittedly a bit confused. So an offer was made.

Ms. Heekin: Correct.

Chairman Martinez: On Friday before the long weekend.

Ms. Heekin: Correct.

Chairman Martinez: And she just needs a little bit more time to talk to her business.

Ms. Heekin: Correct.

Chairman Martinez: Sounds like its all pretty reasonable on her end, if it can get it resolved. So, I think we have the discretion to continue the threshold review, because we are still under that umbrella.

Ms. Heekin: It is within your discretion to do whatever the board wants to do. The city's position is, we've put everything we have on the table at this point.

Chairman Martinez: Understand.

Ms. Heekin: If her position is that she is going to try to get more money out of us, it can't happen. So there is no reason then to postpone to just go ahead and have a hearing another two weeks from now and get everybody back together again.

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Chairman Martinez: If I heard it correctly, she said that she got the offer the Friday afternoon before the long Memorial Day weekend. Today is Wednesday, yesterday was the first business day and she is going to meet tomorrow with her counselor or advisor. My opinion, that's one of five, that seems like a reasonable request. I would rather see this matter resolved amicably than to enter a ruling or to have a trial, and it seems to me counselor, Ms. Suarez, unless you tell me otherwise, that we could continue this, further adjourn this phase of the proceeding, this threshold review.

Deputy City Attorney Suarez: Correct. You have the authority to continue this and reconvene.

Mr. DeMaria: I was wondering before we do that, just to clean up the record so that maybe we'll never come back. But on this issue of the objection, my feeling is that I would make a motion to overrule the objection and let the record be complete with what she submitted. That way we could clean up the record on that. I don't know if anybody agrees with me or not.

Mr. Newell: I'm fine with that.

Mr. DeMaria: I would move that we overrule the objection of the city and allow the record to be complete.

Chairman Martinez: Any second?

Mr. Newell: Second.

Chairman Martinez: Any discussion? All those in favor, please indicate by saying aye.

All: Aye.

Chairman Martinez: Anyone opposed? It carries unanimously. Thank you, Joe.

Mr. DeMaria: And the only other thing I would say, I agree the adjournment makes sense. I almost feel sitting here like you are negotiating through us and I don't think that's appropriate. I understand your emotion on your side. I understand the city's position. I think the best thing is what the Chairman said, and I think what counsel said, give them a chance to go and finalize a deal. But I do think we should probably make it clear that there wouldn't be any extensions after this next one. I think its time to get it done. That's my view.

Chairman Martinez: That's a good point. Thank you, counselor. You can be seated. I'm going to open it up for discussion among the board members. Can I do that now Ms. Suarez?

Deputy City Attorney Suarez: Yes. And just for the record, Ms. Ferrera is on Zoom.

Chairman Martinez: Oh, great. Okay. Well welcome. Board member Ferrera, you are allowed to attend as if you were sitting here with us and I hope you get better soon. So, let me open it up for discussion.

Ms. Ferrera: Thank you.

Chairman Martinez: You've all heard Mr. DeMaria and myself, any other board member like to say anything?

Mr. Newell: It sounds like no one here is screaming impasse. So, you want to move forward and attempt to settle it and the city does as well, it seems. So, I'm happy with an adjournment. I would ask my wiser and more experienced friends here, would be the etiquette of telegraphing what would happen if there is not a settlement reached coming back here for any member. For instance, I feel like I have, I'm ready to render a decision, unless something were to come out of left field, and I don't know if that would be appropriate to discuss now, or should we all the settlement negotiations to conclude, and then come back.

Chairman Martinez: Just to respond to you. I think – it sounds like we have them in a pretty good state of resolving it, so I personally don't want to throw a wrench into the whole thing, but I think you've communicated your actions with your comments. Ms. Ferrera, would you like to say anything? Alright.

Ms. Ferrera: I'm in agreement.

Chairman Martinez: Thank you, Ms. Ferrera. Ms. Suarez, I'm looking for your advice. It seems like we can adjourn or continue. What's the right term.

Deputy City Attorney Suarez: I would continue. Continue this threshold review.

Chairman Martinez: Let's continue this threshold review, if there is no objection from my colleagues, so the parties can discuss the proposal, and have more time. So we need a date certain, maybe even 30 days.

Deputy City Attorney Suarez: I would like a motion by one of the members to continue, so we could discuss potential dates.

Mr. Perez: I would move to...[Inaudible – off mic]...

Chairman Martinez: That's a good idea. So how about by June 10th, the Friday.

Mr. Perez: [Inaudible – off mic]

Chairman Martinez: Sounds like a good idea, everybody in agreement. Like a motion.

Deputy City Attorney Suarez: That's an appropriate motion.

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Chairman Martinez: Second.

Mr. DeMaria: Second.

Chairman Martinez: Any discussion? All those in favor, please indicate by saying aye.

All: Aye.

Chairman Martinez: Passes unanimously. So we are going to get a date, 30 days from now, but by June 10th that's the drop dead date for the parties to resolve their settlement discussions. If its not settled by then, then we are going to go forward to the next hearing date and make a decision then as to where we go next. Okay. Great. Thank you. Thanks everybody. Looks like we are making some progress. Have a nice day.