

RESOLUTION NO. 2022-R-10

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, REMOVING B. DOUGLAS HINDMARSH FROM THE PERSONNEL BOARD, AS THE GROUP D EMPLOYEE REPRESENTATIVE, IN ACCORDANCE WITH CHAPTER 2, ARTICLE 3, SECTION 22-32 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES; FURTHER PROHIBITING B. DOUGLAS HINDMARSH FROM SERVING ON ANY CITY BOARDS OR COMMITTEES; AND PROVIDING FOR AN ELECTION OF THE GROUP D EMPLOYEE REPRESENTATIVE TO THE PERSONNEL BOARD; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.

WHEREAS, the City of North Miami Personnel Board (the “Personnel Board”) is an advisory board that presides over appeals filed by City employees and advises the City’s Personnel Director on employment matters as indicated in the City’s Civil Service Rules and pursuant to Section 15-7 of the City Code; and

WHEREAS, Chapter 2, Article 3, Section 2-32, of the City of North Miami Code of Ordinances, states that “Unless otherwise provided by law, appointees to all boards, commissions, committees, authorities and all other advisory appointive bodies, whether created by ordinance, resolution or other means, serve at the pleasure of the city council. Appointees may be removed from their appointive position upon motion of the mayor or a member of the council and upon vote of a majority”; and

WHEREAS, pursuant to Section 15-4 of the Code of Ordinances, the City Council may at any time remove a personnel board member from office; and

WHEREAS, it is recommended that Board Member and Chairman, B. Douglas Hindmarsh (“Chairman Hindmarsh”), be removed from office and be declared as unfit to serve on any City boards and committees due to several allegations of unlawful misconduct; and

WHEREAS, at a January 24, 2022 Personnel Board hearing, Chairman Hindmarsh made several inappropriate remarks toward a female city employee and legal advisor to the board stating “If she weren’t married fifty years ago, I would have taken her out. The upshot is, she was married.” as documented in the transcript attached as Exhibit “A”; and

WHEREAS, prior to the January 24, 2022 hearing, Chairman Hindmarsh, violated Florida's Sunshine Law by unlawfully engaging in ex-parte email communications with fellow board members and an attorney representing an aggrieved employee to engage in discussions regarding a pending appeal and for which a public hearing had been scheduled as documented in the emails attached as Exhibit "B"; and

WHEREAS, at the January 24, 2022 hearing, Chairman Hindmarsh continued to address the legal advisor in a disrespectful and abusive manner lodging a tirade of false allegations toward the employee alleging forgery and the unauthorized distribution of a Board Order despite being provided with uncontroverted evidence that there was no factual basis for these allegations; and

WHEREAS, specifically, at its December 20, 2021 meeting, the Personnel Board, by a majority vote, issued an Order to Show Cause and appear at a January 24, 2022 hearing, further directing the Board Attorney to serve the appellant and his counsel and also provided specific language for the contents of the Order as well as handwritten draft authored by Chairman Hindmarsh see transcript and handwritten draft attached as Exhibit "C"; and

WHEREAS, a draft of the Order was circulated to all Board Members on December 21, 2022 by the Personnel Board Clerk prior to distribution see Email attached as Exhibit "D"; and

WHEREAS, prior to the issuance and distribution of the Order, the Personnel Board Clerk confirmed the Chairman's approval of the Order and the approval for the Board Attorney to send out the Order on behalf of the Board see email confirmation attached as Exhibit "D"; and

WHEREAS, we aware of other instances where Mr. Hindmarsh verbally abused other city employees, but those employees chose to remain silent; and

WHEREAS, Chairman Hindmarsh's violations of the Sunshine Law, misconduct toward city employees and false statements constitute a liability for the City and his continued membership on the Board will further expose the City to potential risk for legal actions; and

WHEREAS, City Administrative Regulation No. 1-72 provides that it is the policy of the City that all employees enjoy a work environment free from discrimination and harassment; and

WHEREAS, the City's discrimination and harassment policy further states that its department heads and supervisors are responsible for maintaining a work environment that is free

from discrimination and harassment, as well as any other conduct which creates a hostile work environment for any individual; and

WHEREAS, Chairman Hindmarsh has created a hostile work environment for city employees designated as support staff to the Personnel Board; and

WHEREAS, the Mayor and City Council find this conduct to be discriminatory and in violation of the spirit of Administrative Regulation 1-72 which was designed to protect city employees from harassment and a hostile work environment; and

WHEREAS, members of the Personnel Board are deemed to have extrinsic knowledge and awareness of appropriate workplace conduct as they are the appellate review board for City employees appealing charges of misconduct; and

WHEREAS, City employees are deserving of excellent representation of their interests at Personnel board proceedings by fair and neutral employee representatives that do not engage in unlawful conduct during public proceedings; and

WHEREAS, Chairman Hindmarsh has engaged in conduct that is unbecoming of a representative of a City advisory board; and

WHEREAS, the Mayor and Council find that it is in the best interest and welfare of the City of North Miami employees to remove B. Douglas Hindmarsh as a member of the Personnel Board and to conduct an election seeking an adequate employee representative for Group D of the Personnel Board.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. **Recitals.** The recitals set forth above are adopted by the Mayor and City Council of the City of North Miami, Florida and are incorporated herein.

Section 2. **Removal.** The Mayor and City Council of the City of North Miami, Florida, hereby remove B. Douglas Hindmarsh from the Personnel Board and prohibit him from serving as a member of any City Board or Commission.

Section 3. **Election.** The Mayor and City Council of the City of North Miami, Florida, hereby direct the City Clerk to conduct an election for Group D of the Personnel Board.

Section 4. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 9th day of February , 2022.


PHILIPPE BIEN-AIME
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ATTORNEY

Moved by: Timothe

Seconded by: Estimé-Irvin

Vote:

Mayor Philippe Bien-Aime
Vice Mayor Alix Desulme, Ed.D.
Councilman Scott Galvin
Councilwoman Kassandra Timothe, MPA
Councilwoman Mary Estimé-Irvin

<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)