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FINAL REPORT REGARDING ALLEGATIONS OF DISCRIMINATION AND HARASSMENT BY PARKS AND RECREATION MANAGEMENT July 12, 2019

Executive Summary

Between February 2018 and May 2019, the Internal Affairs (IA) unit of the Police department interviewed sixty (60) current and former members of the Parks and Recreation staff regarding allegations of racial discrimination. Fourteen (14) employees declined to be interviewed. IA was assisted by the Human Resources department. The finding of this investigation is that there is no evidence of discrimination.

Other than a small group of employees who have filed repeated claims of discrimination with state and federal agencies as far back as March 2009, the clear majority (83%) of those interviewed have never been subjected to or witnessed any discrimination. Any discussion of discrimination came from those who had filed complaints with state and federal agencies, many of which were filed before the current Parks and Recreation management team was in place. Notably, nineteen (19) formal complaints filed by Parks and Recreation employees between 2000 and 2019 with the EEOC or Florida Commission on Human Rights by nine (9) individuals were dismissed with a "No Reasonable Cause" finding. Two (2) complaints are pending.

Interactive Diversity training was provided to the entire Parks and Recreation Department to strengthen a culture of inclusiveness. The Parks and Recreation and Human Resources departments also acknowledge that there is an opportunity to improve communication efforts to make sure that all employees are provided information on how to advance their careers in the City, if desired, and to assure all employees that the promotional processes are fair, objective and transparent.

Background

On February 7, 2018, the Miami New Times published an article regarding purported discrimination and harassment within the City of Miami Beach Parks and Recreation Department (Department). In the article, two (2) department employees allege department management created a hostile work environment through discrimination and harassment of African-American employees and cite to the termination of a Superintendent who was trying to change that culture. The City also received letters from Douglas Tripodo, a discharged Superintendent of the Department; a former department employee, Ida Smart; and Carlos George, President of AFSCME, wherein they allege discrimination and harassment by the Parks and Recreation management team.

On February 8, 2018, City Manager Jimmy Morales presented a Letter to Commission (“LTC”) addressing many of the issues raised by the Miami New Times and the Letters. **The LTC explained that the preliminary investigation revealed no discrimination or harassment within the City of Miami Beach Parks and Recreation Department.**

On February 25, 2018, City Manager Morales directed Miami Beach Police Chief Daniel Oates and Human Resources Director Michael Smith to investigate the claims of discrimination and harassment made by those employees of the Parks and Recreation Department. As a result, an investigation was conducted by the Miami Beach Police Department Internal Affairs Unit, in conjunction with the Human Resources Department.

Scope of Investigation

The investigation focused on allegations of racial discrimination and harassment, from which certain employees allege to have suffered or continue to suffer within the Parks and Recreation under its current administration.

Methodology

An administrative investigation included a review of all relevant documents, Miami New Times articles, an online petition, City Manager Morales’ LTC, letters, grievances, employee EEOC and discrimination claims, emails by and to the Department Management team for a period of two years, Department policies, applicable Collective Bargaining Agreements, and Department employee interviews.

A list of all Department employees, seventy (70) in total, who identify themselves as African-American was provided by Human Resources. A structured questionnaire was prepared with the assistance of the Human Resources Department, and the seventy (70) employees were asked to participate in interviews. Of that number, fifty-six (56) were interviewed, fourteen (14) refused to provide a statement. One (1) former employee, Superintendent Douglas Tripodo, was interviewed; and, one (1) other was unreachable. Three (3) managers, John Rebar (Department Director), Jose Del Risco (Assistant Director, Parks), and Cynthia Casanova (Assistant Director, Recreation) were also interviewed. In total sixty (60) interviews were conducted.

Findings

An overwhelming majority of African American employees reported that they had neither been the victim of racial discrimination (83%) nor a direct witness to such alleged action (79%). Rather, such claims were anecdotal third-party assertions of discrimination. Those third-party sources cited were identified as four (4) employees who have filed EEOC complaints, had incidents which occurred during prior administrations, and the New Times article.

Very few employees (17%) of the Parks and Recreation Department claimed to be direct witnesses to racial discrimination. Of those who did, their concerns centered on the perceived inequities of the hiring practices and promotional processes or incidents which occurred prior to the tenure of Mr. Rebar or Mr. Del Risco.

Certain recurring topics identified from the statements regarding hiring practices, promotional practices, overtime distribution, assignments and seniority, lack of diversity (African-Americans) in leadership positions, and disparate treatment. Additionally, those sporadically expressed concerns related to the use of the term “Prison Yard” to describe a worksite and perceptions of vocal employees that they have been targeted for discipline were also addressed.

Notably, during interviews, several of the employees related instances where they felt either harassed or discriminated against during the tenure of prior administrations and/or perpetrated by employees or supervisors who are no longer employed by the Department or the City. Also, it is noted that many of the claims that were filed with the EEOC by some of the employees interviewed were filed well before John Rebar or Jose Del Risco were working for the Parks and Recreation Department.

Hiring Practices

Certain employees assert that the Parks and Recreation Department has hired external candidates to fill positions that, in some instances, could have been filled by promoting existing employees. While procedures were in place to conspicuously post such job openings in various areas of the workplace, employees also state they were not aware of the position openings. The perception is that whites and Hispanics from outside of the City, with less experience and qualifications, are being hired in lieu of more qualified African-American employees. Those employees report having to train new outside employees, some occupying higher positions, in the function, procedures, process and geographical responsibilities which are already held by existing personnel.

Due to market conditions, the City of Miami Beach and other employers have the advantage of seeking and hiring the best-qualified candidates irrespective of their race or gender who can often bring in innovative practices to accomplishing department objectives. However, any new hire in an organization will obviously need to learn those city-specific processes and procedures which are not reflective or indicative of job knowledge, skills and abilities.

It is the practice of Human Resources to encourage structured interviews, and to utilize diverse panels of interviewers, which the Parks and Recreation Department has followed. The process is designed so that the most qualified candidate is selected. Parks and Recreation and Human Resources have committed to doing a better job by proactively making resources available to those employees who want to move up in the organization.

Table #1 – Comparison of Miami-Dade’s Population Breakdown in comparison to the CMB Parks and Recreation and the CMB workforce

	2010 Census	Parks & Recreation	CMB Work Force
Whites	15.4%	7.6%	19.6%
Hispanics	65%	55%	56.5%
Blacks	17.1%	30%	22.7%

Over the last twelve (12) months the Department has hired eighty (80) employees- Thirty-two (32) are Black, sixteen (16) are White, twenty-eight (28) are Hispanic, one (1) is Asian and three (3) did not disclose.

Based on the conspicuous posting of all job openings and the selection of the most qualified candidate, irrespective of race or gender, it is concluded that there is no evidence demonstrating discriminatory hiring practices.

Promotional Practices

Certain employees complained the Department and the Management team determined who they would promote prior to the commencement of the promotional process and expressed distrust with regard to the process. Various employees who have applied for promotion during their tenure with the Department also complained that they were, in many instances, not provided with an explanation of scoring, eligibility lists, final ranking, interview opportunity or the basis for their ineligibility which falls under the purview of the Human Resources Department.

Some employees also report being misled by interview panel members who said they performed well, but ultimately were not promoted. However, this seems to be a misinterpretation of social courtesies extended to them by panel members, whose courtesies often left employees with a misplaced belief that they were the number one candidate for the promotion.

Department Directors acknowledge more needs to be done to make the process transparent. The Parks and Recreation Department has already reached out to Human Resources to approve the promotional process. Human Resources now regularly participates in the interview process and provides participating employees with a ranked promotional list. The Parks and Recreation Department has also instituted promotional interviews for all current employees. Steps have been taken by the Management team to implement improvements, to include establishing a pre-screening scoring process allowing candidates to present their training, experience, education, seniority, and other qualifications.

It is the practice of Human Resources to encourage structured interviews and the cultivation of diverse panels of interviewers. The process is designed so that the most qualified candidate is selected.

Over the last twelve (12) months the Department has promoted seventeen (17) employees- Five (5) are Black, three (3) are White, nine (9) are Hispanic. The Acting Operations Supervisor for the last six (6) months is Black.

It is concluded that there is no evidence demonstrating discriminatory hiring or promotional practices based on this and prior investigations into EEOC claims filed by Parks and Recreation employees. The EEOC has agreed in all cases to date with a "No Reasonable Cause" Finding.

Overtime Distribution

Those interviewed in the Parks and Recreation Department complained that employees who are favored, or part of a clique, receive more overtime opportunities than others. Those employees assert the overtime wheel (used to disperse overtime opportunities) is not used correctly and in some cases is not posted at all. Additionally, pursuant to the Collective Bargaining Agreement, Article 7, Section 7.5, the employee must be qualified to perform the specific overtime work required.

When the overtime wheel is used, an employee may be skipped because he/she lacks the necessary skills required for the overtime task. There have also been instances when the overtime wheel for a specific location is exhausted, and another location's overtime wheel was utilized. There is no formal procedure for choosing which facility's overtime wheel should be used if a requesting facility's wheel has been exhausted. Nonetheless, there have been no overtime grievances filed by any bargaining unit in Parks and Recreation in the last five (5) years. A claim by Ms. Smart, a Parks and Recreation employee filed with the Florida Commission on Human Rights (FCHR) claim asserting discrimination on overtime distribution based on her race and gender was found by them to have "No Reasonable Cause".

There is no evidence supporting the assertions of discrimination, favoritism, or violation of the applicable Collective Bargaining Agreement terms with respect to overtime distribution.

Assignments and Seniority

Employees complained that the Parks and Recreation Department was not properly considering their seniority for facility assignments and work schedules. In Parks, employees contend that being assigned to Open Space Park is viewed as punishment. They believe only black employees are assigned to Open Space Park, while Hispanic employees are assigned to the more desirable Flamingo Park. They describe the responsibilities at Open Space Park as predominantly outdoor tasks, while those at Flamingo Park are predominately in an air-conditioned facility. Recreation employees reported similar concerns with facility assignments and work schedules. They believe the Department does not assign them to facilities correctly, and abruptly changes work hours without considering the impact on their personal lives.

The Management team described the duties at Flamingo Park as like those in Open Space Park, which is a beautiful oceanside park with a lush tree canopy. While all the employees at Open Space Park are African-American, not all the employees at Flamingo Park are Hispanic or white. The management team said the assignment of employees to a park was not based on employee demographics, but rather skill, experience and, at times, employee request.

In the specific case of complainant Lee Holmes, his work location was changed to Scott Rakow Center at his request which afforded him a better schedule Monday through Friday from 7:30AM-4PM for his benefit so that he could care for the special needs of his son. The department even offered transportation for his son to his father's workplace daily following the afterschool program, which he did not accept. He referred to this change without acknowledging the personal benefit to him and his family, as placing him "in jail".

Based upon the investigation, no evidence was found demonstrating discriminatory practices in employee assignments.

Disparate Treatment

Some employees described a "clique" environment in Recreation with managers showing "favoritism" towards clique members. Employees believe clique members receive less discipline or none, more frequent promotions, and better work conditions. Although none of the employees could name a clique member, they collectively named Recreation's Assistant Director, Cindy Casanova, as the clique's leader.

And, although some of the purported cliques are white or black, the majority is Hispanic. No cliques were presented by Parks employees.

No evidence was found indicating Department managers engaged in a practice of decision making motivated by a protected trait, e.g., race, religion, sex or national origin. Notwithstanding employee perception, there is no evidence supporting disparate treatment either directly or through a clique by Assistant Director Cassanova.

Use of Derogatory Terms to Describe Worksites

Some employees claim that the term “concentration camp” has been used when referring to Open Space Park and “prison yard” when referring to Parks’ Maintenance Yard.

The Miami New Times Article reported employees consider Open Space Park a “concentration camp.” However, employees involved in this investigation knew the original source of that term. Employee Keith Duncan said he has heard the term but did not know its source and suspected it came from the Miami New Times article. Employee Terrence Cook said he too heard his facility being referred to as a “concentration camp” but thought the Miami New Times article attributed it to Del Risco. Employee Fulgueira has never heard the term “concentration camp” being used. Del Risco also recalled hearing the term “concentration camp” being used about Open Space Park and believes it stemmed from the Miami New Times Article. Rebar said he had heard the term used by employees during meetings wherein employees expressed concerns that African Americans are assigned exclusively to Open Space Park.

The term “prison yard” stems from personnel changes proposed by former Superintendent Douglas Tripodo. During his short tenure with the Department (August 2017 to December 2017), Tripodo was assigned by Rebar to work with Alonso, DuMont, Comptis, Fulgueira, and former Parks Manager Plotkin to develop a proposal for reorganization of the entire Department. Tripodo’s plan included a previously attempted procedure wherein most Park employees respond to the Park’s Maintenance Yard located at 2100 Meridian Avenue at the beginning of their shift to receive their assignments.

Tripodo told employee Keith Simmons about the proposed change despite being instructed by Rebar to maintain confidentiality to avoid unwarranted employee anxiety. Simmons opposed the change and said it would create a “Prison Yard” effect at the Maintenance Yard. Simmons thereafter spoke with Fulgueira about the change, and he too used the term “prison yard.” Fulgueira later expressed concern to Del Risco that employees found out about the proposed change and the “prison yard” reference.

Del Risco instructed Fulgueira to submit an email to him and Rebar documenting the conversation with Simmons. In a subsequent meeting with Rebar, Tripodo, Fulgueira and other members of the Management team, Del Risco used the term to describe how employees (Simmons) felt about the proposed change.

No evidence was found indicating the terms were coined by the Management team or used by senior Parks and Recreation management to describe a City workplace.

Vocal employees

Parks and Recreation employees categorized Lee Holmes, Ida Smart, Perman Terry, and John Thompson as “vocal employees” who have repeatedly complained about problems during their employment. The vocal employees insist they have been targeted for speaking out. While some co-workers agree with

that position and feel the vocal ones were being targeted for vocalizing their concerns, several others believe the vocal employees brought their problems upon themselves.

Lee Holmes was involved in an accident in 2014 where he ran over a citizen twice on the beach with a city truck, causing serious injuries and cost the City more than \$250,000. His city vehicle driving privileges were subsequently revoked and he feels that decision has negatively impacted his ability to be promoted.

Ida Smart was laterally transferred to another department in 2018 on a high performing team where her supervisor was the Vice President of her bargaining unit. She immediately engaged in insubordinate conduct and made threatening remarks to her new coworkers and through progressive discipline was eventually discharged.

Perman Terry was employed by the City since 1985 and was promoted twice in 1994. He was demoted in 1997 at his request and was again promoted in 2001 until he resigned in 2002. In January 2005 he was rehired by the City and was again promoted in August of 2005 in the Greenspace division. In 2014 he was transferred to Parks and Recreation where he has worked since. Clearly, he has not been subjected to any adverse employment actions and decided to come back to the City in 2005.

John Thompson hired in 2004 has filed the most complaints of discrimination. Six have been dismissed by the EEOC. He filed his latest complaint in May 2019, the day after his sixth claim was dismissed by the EEOC. Mr. Thompson was promoted in January 2018 and has not suffered any adverse employment actions during his tenure.

This investigation did not identify any specific instances wherein the Department or the City targeted any employee for being “vocal” or otherwise presenting concerns or disagreement.

Complaints to Outside Agencies

Parks and Recreation employees have made a total of nineteen (20) EEOC complaints and one (1) to the Florida Commission of Human Relations (FCHR), many by the same employees (certain employees filed multiple complaints) not 19 employees filing complaints. **All the complaints were filed against the City of Miami Beach by eight (8) specific current or former employees of the Parks and Recreation Department.** The oldest complaint was received by Human Resources on May 9, 2008, and the latest was dated May 2019; nine (9) complaints we received prior to the tenure of John Rebar, twelve (12) were filed prior to Del Risco joining Parks and Recreation.

Lee Holmes filed four (4) complaints, Sylvia Knight filed one complaint, Richard Martinez filed one complaint, Ida Smart filed three (3) complaints, Rochelle Smith filed one complaint, John Thompson filed seven* (7) complaints, Samantha Philamar filed one complaint, Derrick Knight filed one complaint and Perman Terry filed two (2) complaints. Eighteen (18) complaints cited Racial Discrimination or Retaliation. * Thompson filed his 7th complaint the day after he received the notice of dismissal on his sixth claim by the EEOC.

Nineteen (19) of the complaints have been dismissed by the investigating agencies with a finding of No Reasonable Cause. Two (2) recent complaints are currently pending with the EEOC- one for John Thompson and the other for Lee Holmes. Lee Holmes has also filed suit in Circuit Court.

****See Exhibit A**

Proactive Actions Taken

Accessibility to Management

John Rebar conducted a listening tour after the New Times article was published to take the pulse of his department. He and his management team have increased his accessibility, listened to his employees and gained valuable information to continue to improve operations within Parks and Recreation. Quarterly lunch and learn sessions for the entire department have been implemented. Informational department-wide emails are sent out routinely to inform employees of pertinent Parks and Recreation happenings.

Hiring and Promotions

As noted earlier, steps have been taken to improve transparency and communication regarding the promotional process:

- Clear expectations of job qualifications are posted and discussed at annual evaluations.
- Human Resources is involved in all interviews and the interview process regarding promotions and new hires.
- Management has taken steps to provide City email accounts and computer access to all Department employees. 42 of 109 employees who did not have emails refused emails.
- Rankings are provided to candidates with counseling on steps the candidate may affirmatively take to enhance future likelihood for success to include formal academic or vocational training, pursue opportunities for cross training, seminars offered locally or through the Florida Parks and Recreation Association.
- Current employees are provided the opportunity to interview even if they are deficient in the required minimum qualifications. This builds interview skills even if the candidate lacks the needed qualifications and gives the candidate an opportunity to present their unique qualifications and be recognized.
- Human Resources will provide vocational guidance to any employee who seeks advice on how (s)he can be where they want to be within the City of Miami Beach organization.
- The City has offered a robust tuition reimbursement program for college and vocational training for many years and recently enhanced the program in 2016. Employees can attend up to six (6) classes per calendar year and be reimbursed up to 90% of the cost of tuition and registration fees and the program also covers the costs of vocational certifications.
- The City offers an Employee Academy and a Leadership Academy which are open to those employees who want to improve their knowledge and skills to better serve the City.
- 120 Parks and Recreation employees have taken advantage of approximately 40 trainings that have been offered to department employees

Diversity Training

Between March 2018 and May 2018, 209 Parks and Recreation employees received onsite, live training at eleven (11) sessions from Rick Caldwell, President of *RCultures*, a Miami-Dade firm which specializes in cultural diversity and sensitivity training. This training further underscored the Citywide procedure and commitment to prevention of harassment and discrimination on multiple levels.

Opportunities

1. Parks and Recreation management has an opportunity to engage the workforce in a discussion to dispel the perception of “good” parks and “bad” parks, eliminate any perception of favoritism, and dispel a widely held misconception that seniority is a primary basis for promotion.
2. Parks and Recreation should review and clarify the methodology for scheduling, and work assignments. In addition, management should have frank discussions about expectations and provide as much coaching and training as possible through the City’s tuition reimbursement program to empower all members of the workforce to achieve the knowledge, skills and abilities to be ready for promotions when such opportunities arise.
3. Middle management should continue to receive appropriate training and support in directing work, evaluating performance and enforcing policies and procedures. Human Resources is currently working with all City departments to offer expanded live comprehensive supervisory training at this level.
4. The Department should continue and expand ways to get information communicated from the rank and file to management. Managers and supervisors should be more visible in the workplaces and make time to listen and respond to issues that arise in a timely manner since many do not have ready access to computers at work.
5. The Department and Human Resources should take extra steps to make employees aware that it is possible for any employee to register a “job interest card” on the HR Recruitment page of the City’s website and review the job descriptions and requirements of jobs of interest. By doing so, persons who are *interested* in openings in any City job(s) are notified via email directly when such positions are posted.
6. The City is currently negotiating with the AFSCME union which represents most workers in the Parks and Recreation Department on the methodology of how overtime is distributed with the goal of a more transparent process.

Conclusions

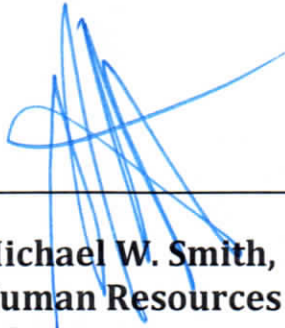
No evidence of discrimination was found in the areas of hiring practices, promotions, overtime distribution, or work assignments. No evidence was found of use of derogatory descriptions by management of worksites, nor of management staff targeting or retaliating against “vocal” employees.

Despite this, several employees continue to believe that they have been discriminated against by the City under past or present management. Nineteen (19) these allegations of discrimination have been thoroughly investigated by state and federal agencies and have without exception been found to have “No Reasonable Cause”. Two (2) claims by repeat filers are pending with outside agencies and the City has filed position statements on each of these.

The Department and Human Resources are working together to improve communications with employees concerning promotions and to encourage career development training for all employees who

want to advance. Additional training has been completed or initiated in the areas of diversity and enhancement of supervisory skills.

I want to thank the members of the Internal Affairs Unit of the Miami Beach Police Department for their thorough and professional assistance investigating this matter. Thanks are also extended to the Parks and Recreation Department staff whose cooperation was essential to a complete investigation.

A handwritten signature in blue ink, appearing to read 'Michael W. Smith', is written over a horizontal line. The signature is somewhat stylized and overlaps the line.

Michael W. Smith, IPMA-SCP
Human Resources Director
July 12, 2019

EXHIBIT A

Equal Employment Opportunity Charges - Updated 7/12/2019

LAST NAME	FIRST NAME	DATE OF BIRTH	GENDE R	RACE	DATE OF HIRE	EEOC Charge #	DEPARTMENT	CLASSIFICATION	TYPE OF DISCRIMINATION	RECEIVED IN H.R.	SENT TO EEOC	CMB STATUS	EEOC OUTCOME
1	Holmes	Lee	M	B	04/07/97	EEOC 510-2009-01407	Parks & Recreation	Municipal Service Worker I	Race (On the job injury/employer forced him to use his arm)	12/17/2008	3/12/2009	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 12/08/2009
2	Holmes	Lee	M	B	04/07/97	EEOC 510-2013-05113	Parks & Recreation	Municipal Service Worker I	Retaliation Race	9/25/2013	2/28/2014	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 6/10/2014
3	Holmes	Lee	M	B	04/07/97	EEOC 510-2014-04829	Parks & Recreation	Municipal Service Worker I	Race/Discipline	10/20/2014	1/6/2015	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 6/08/2016
4	Holmes	Lee	M	B	04/07/97	EEOC 510-2018-01865	Parks & Recreation	Municipal Service Worker I	Retaliation/Race	1/12/2018	8/9/2018	CLOSED	Pending
5	Knight	Derek	M	B	11/25/1992	EEOC 510-2019-01203	Parks & Recreation	Recreational Attendant	Race, Color, Retaliation, Age, Disability	12/20/2018	Not required	CLOSED	Note: Emailed request for charge received notice 12/20/2018
6	Knight	Sylvia	F	B	01/04/90	EEOC 510-2008-02542	Parks & Recreation	Parks/Concession Attendant	Retaliation/Race/ Disability (Attendance/ discipline and no FMLA documentation)	5/9/2008	N/A	CLOSED	12/9/2008 Mediation - EEOC and CMB reached a settlement agreement on 1/20/2009 (5 day suspension reduced to 2 and 10 day to 3 day)
7	Martinez	Richard	M	H	06/18/96	EEOC 510-2012-05371	Parks & Recreation	Parks/Maintenance Heavy Equipment Operator I	Disability (forced to go fitness for duty)	9/26/2012	N/A	CLOSED	EEOC & CMB settled thru mediation on 2/4/2013 (He will report to a different supervisor)
8	Philamar	Samant ha	F	B	12/21/15	EEOC 510-2016-04205	Parks & Recreation	Recreational Leader 1	Retaliation/Race/ National Origin (On 8/11/2016 - CMB terminated her employment as PT Recreation Leader I)	10/26/2016	N/A	CLOSED	10/27/2016, no need to respond EEOC can't investigate at this time. Refer to Email from Consuelo Nodar EEOC Investigator - 12/26/2016 EEOC (Mamibeach1f)
9	Smart	Ida	F	B	04/24/06	EEOC 510-2013-01823	Parks & Recreation	Municipal Service Worker III	Sex/Race (mistreatment)	2/11/2013	6/20/2013	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 1/22/2016

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Equal Employment Opportunity Charges - Updated 7/12/2019

LAST NAME	FIRST NAME	DATE OF BIRTH	GENDE R	RACE	DATE OF HIRE	EEOC Charge #	DEPARTMENT	CLASSIFICATION	TYPE OF DISCRIMINATION	RECEIVED IN H.R.	SENT TO EEOC	CMB STATUS	EEOC OUTCOME
10	Smart	9/26/1966	F	B	04/24/06	Florida Commission of Human Relations. #201700326/ EEOC #15D2017-00241	Parks & Recreation	Municipal Service Worker III	Retaliation/Race/Sex Overtime	1/5/2017	3/22/2017	CLOSED	1/10/2018 - The Commission issued a determination "No reasonable cause". 4/6/2018 EEOC accepted the recommendation from the Commission
11	Smart	9/28/1966	F	B	04/24/06	EEOC 510-2018-05869	Parks & Recreation	Municipal Service Worker III	Retaliation/ Race/ Sex	7/31/2018	9/25/2018	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 9/27/2018
12	Smith	8/2/1977	F	B	07/23/00	EEOC 510-2011-05127	Parks & Recreation	Recreational Leader I	Race/national origin (Promotion Transfer)	8/1/20/11	2/29/2012	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 6/28/2012
13	Terry	10/19/1960	M	B	01/10/05	EEOC 510-2013-04999	Parks & Recreation	Municipal Service WorkerII	Race (Promotion)	9/17/2013	2/28/2014	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 5/15/2016
14	Terry	10/19/1960	M	B	01/10/05	EEOC 510-2018-03704	Parks & Recreation	Municipal Service WorkerI	Race/Color	4/24/2018	6/5/2018	CLOSED	Pending
15	Thompson	7/26/1977	M	B	06/21/04	EEOC 510-2009-00180	Parks & Recreation	Municipal Service WorkerI	Retaliation (from 2004-2008 he was bypassed/promotion)	10/2/2008	1/29/2009 (Mediation)	CLOSED	1/29/2009 - Settlement Agreement. Recruitment will remain open until employee can apply for Municipal Service WorkerI
16	Thompson	7/26/1977	M	B	06/21/04	EEOC 510-2012-00414	Parks & Recreation	Municipal Service WorkerI	Retaliation/race (Promotional/ Overtime)	10/31/2011	3/26/2012	CLOSED	2/15/2013 EEOC issue a Notice to Sue (upon request) - Dismissed in Court
17	Thompson	7/26/1977	M	B	06/21/04	EEOC 510-2015-04022	Parks & Recreation	Municipal Service WorkerI	Retaliation/Race /Color/Disability (needed FMLA for his father's disability)	7/30/2015	12/6/2016	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 1/1/2017
18	Thompson	7/26/1977	M	B	06/21/04	EEOC 510-2018-00213	Parks & Recreation	Municipal Service WorkerI	Race/ (promotion to a supervisory position)	10/23/2017	12/13/2017	CLOSED	Note: Promoted to Municipal Service WorkerI on 1/22/2018 - 4/8/2019 EEOC Notice of Right to Sue (issued on Request) - EEOC Terminating its process

Equal Employment Opportunity Charges - Updated 7/12/2019

EXHIBIT A

LAST NAME	FIRST NAME	DATE OF BIRTH	GENDE R	RACE	DATE OF HIRE	EEOC Charge #	DEPARTMENT	CLASSIFICATION	TYPE OF DISCRIMINATION	RECEIVED IN H.R.	SENT TO EEOC	CMB STATUS	EEOC OUTCOME
19	Thompson	Jonh	M	B	06/21/04	EEOC 510-2014-01137	Parks & Recreation	Municipal Service Worker I	Retaliation/Race	12/13/2014	8/8/2014	CLOSED	EEOC is unable to conclude that the information obtained established violation of statutes 3/31/2015
20	Thompson	John	M	B	06/21/04	EEOC 510-2017-01475	Parks & Recreation	Municipal Service Worker I	Retaliation (applied for Municipal Service Worker III but he was not promoted)	1/27/2017	2/13/2017	CLOSED	No Reasonable Cause M0501/2018

OFFICE OF THE CITY MANAGER

NO. LTC# **054-2018**

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: February 8, 2018

SUBJECT: **RESPONSE TO MIAMI NEW TIMES ARTICLE ON PARKS AND RECREATION DEPARTMENT**

Yesterday, an article appeared in the Miami New Times which paints a distressing picture of the Parks and Recreation Department as a workplace. Although, as detailed below, I believe most of the information in the article is inaccurate, I have nonetheless tasked our Human Resources Director with investigating the allegations. As you may recall, these same allegations were made via letters that were recently sent to you by former Parks Superintendents James Vincent Muia and Douglas Tripodo. Both individuals were discharged for not meeting performance expectations, along with other improprieties.

The two employees interviewed according to the article, Ida Smart and Lee Holmes, have also both contacted members of the City Commission with unfounded allegations. Ms. Smart also filed a charge with the Florida Commission on Human Rights ("FCHR") in 2017 which last month was determined, by the FCHR, to have no reasonable cause that an unlawful practice occurred.

The Parks and Recreation Department

Before addressing the specific allegations made in the article, I think it is important to talk about our Parks and Recreation Department generally. The City of Miami Beach is committed to providing a workplace that is free of harassment and discrimination in every form. The Parks and Recreation Department is a large and diverse department. The department currently consists of 250 employees with a demographic of 33 white-not Hispanic, 137 Hispanic, 79 black-not Hispanic and 1 American Indian. The Parks and Recreation workforce is very representative of Miami-Dade County's ethnic make-up. The Division in question (Operations) currently has seven supervisors. The demographics of the supervisors are three white - not Hispanic, three black - not Hispanic and one Hispanic.

The Parks and Recreation Department has a very open and active relationship with its labor unions. Over the last several months numerous communications both written and spoken have taken place between union representatives and administration. At no point has the union raised concerns of discrimination or hostility within the Parks and Recreation Department. In fact, the Operations Division received only one employee grievance in about a year and a half, and it was not of significance, as it related to posting overtime rosters at a park.

The Allegations

You all know that as a general matter, I do not like to discuss personnel matters publicly out of respect to the employee(s) involved. But, in this case, where disgruntled current and former employees have chosen to publicly make false allegations, I believe it is my duty to defend the City and set the record straight.

It is important to address the obvious motivation of Mr. Muia and Mr. Tripodo, both white, not Hispanic individuals. The following is a synopsis of Mr. Muia and Mr. Tripodo's tenure with the City of Miami Beach, ultimately leading to their separation.

James Vincent Muia

Mr. Muia was hired by the City in February 2016, as a Parks Superintendent. Early into his tenure, his shortcomings began to surface. Mr. Muia displayed an inappropriate demeanor, often using derogatory language toward subordinates, coworkers and vendors. One such example was during a Miami Beach Fashion Week event at Collins Park, when he failed to turn off the irrigation system. As a result of his negligence, the sprinkler system was activated and caused thousands of dollars in damage. Rather than immediately remedying the situation, Mr. Muia advised the event host that he had more important matters to address, making it clear that he (Muia) did not care about the damage caused through his negligence. According to the event host, Mr. Muia used profanity and conducted himself in a deplorable way (Exhibit 1). Additional complaints were received both in writing and over the telephone, regarding Mr. Muia's behavior. The complaints ranged from a subordinate employee alleging Mr. Muia was discussing personal medical information with another subordinate in a way to categorize the complainant as mentally unfit (Exhibit 2), to one of the City's vendors expressing serious concern over his aggressive demeanor, including threats (Exhibit 3). On two separate occasions, Mr. Muia had to be physically held back from engaging in physical altercations with a subordinate employee over workplace disagreements.

In addition to the above, a complaint was filed with the Parks & Recreation Department's Administration that Mr. Muia was engaged in questionable financial transactions utilizing City funds. The Administration's investigation revealed that Mr. Muia performed multiple unauthorized transactions with Pristine Irrigation, a company that was not a vendor to the City. In furtherance of the investigation, when asked who the vendor used for a given project was, Mr. Muia provided the name of another vendor, not Pristine Irrigation. He was untruthful, as the invoice and credit card statement clearly showed Pristine Irrigation as the vendor paid for the work (Exhibit 4). The most egregious of these examples was the payment for alleged palm removals in November 2016. A physical inspection of the sites revealed the palm removals never took place. Making the matter worse, the payment was made by Mr. Muia utilizing a subordinate employee's City issued credit card while he (the subordinate) was on continuous extended leave. The credit card transaction was made on November 18, 2016; the subordinate employee was off and did not report to work from November 1, 2016 through December 11, 2016. All of the supporting documents are included herein as (Exhibit 5.)

When confronted with the above evidence, Mr. Muia opted to resign (Exhibit 6). In addition to what is mentioned herein, there are numerous other performance deficiencies and complaints that took place during Mr. Muia's tenure. Before Mr. Tripodo's termination and subsequent letter to City elected officials, Mr. Muia had not been heard of since his resignation.

Douglas Tripodo

Douglas Tripodo was hired by the Parks and Recreation Department on August 28, 2017. After two months of working for the department, his performance was not up to expectations. Mr. del Risco held a counseling meeting with Mr. Tripodo to go over deficiencies (Exhibit 7).

Mr. Tripodo was not happy with the meeting and immediately reached out to Mr. Rebar to request a separate meeting. Mr. Rebar obliged and met with Mr. Tripodo. Mr. Tripodo expressed dissatisfaction with Mr. del Risco questioning his ability to do his job.

Mr. Rebar began to independently monitor Mr. Tripodo's activities and quickly realized that he (Tripodo) was not performing well in his role. As time went on, Mr. Tripodo's performance continued to decline and his dishonesty increased. It was to the point that everything Mr. Tripodo stated had to be verified by personal inspection, as he (Tripodo) would blatantly lie on the simplest of matters. Mr. Tripodo always shifted blame for his poor performance on everyone but himself. Some of the examples of his performance deficiencies are as follows:

- Tripodo requested an increase in the amount of \$160,000 for the purchase orders awarded to the contractors performing hurricane recovery work. When Mr. del Risco inquired as to the balances on existing purchase orders, Tripodo admitted he (Tripodo) allowed the contractors to work beyond their authorized purchase order balances. In fact, as of that day, the contractors had already incurred over \$136,000 in unauthorized work, which was in violation of the City's procurement policy and law. When asked for supporting documents showing his tracking of the hours worked by the contractors' employees, Tripodo failed to provide any support, contrary to the mandate he received from Mr. del Risco months earlier. When Mr. del Risco stressed the gravity of his infraction, Tripodo shrugged it off as "not a big deal." (Exhibit 8)
- Emails were sent by Mr. Rebar and Mr. del Risco on separate occasions to staff advising Art Basel preparations were paramount and parks, especially those with event activations, needed to be in immaculate condition as Art Basel is one of the most important events in the entire region. Even after daily inspections and very prescriptive direction from Mr. del Risco, Mr. Tripodo delivered Collins Park in a terrible condition for Art Basel. The park contained barren areas without sod, areas without mulch, holes, dirt piles, muddy tire marks on sod and pavers, etc. Tripodo's response in was that the park did not look in terrible condition. Tripodo later stated during a walkthrough that the park was fine for Art Basel. Attached are photographs of the deplorable conditions at Collins Park as Art Basel was opening. (Exhibit 9)
- Tripodo ensured the Administration that Belle Isle Park was ready and "going to pop" at Menorah lighting. Attached are the photographs depicting the horrible conditions at the park during the ceremony. The park contained missing sod, dead plants, mud pits, etc. (Exhibit 10)
- On one particular occasion, Tripodo provided cost estimates that were off by thousands of dollars (\$70,000+) due to his failure to contact vendors or at least use historical expenses. When asked, he had no basis or explanation for the figures; he essentially made the figures up. He had previously been made aware

of the importance of the estimates, as they were to be provided to the City Commission. Tripodo made similar baseless estimations on other projects.

- Email to Tripodo from Rebar requesting the addition of mulch at the playground at North Shore Park Youth Center. Tripodo advised it was completed. The mulch was not present at the time of his separation. (Exhibit 11)
- Email from Tripodo stating downed trees were being taken care of that day, (November 21, 2017); however, a week later, the trees were still not addressed (November 27, 2017). In between both dates, Tripodo had verbally advised Rebar and del Risco that the trees were all taken care of. When the City Manager brought to light the work was not done, Tripodo blamed employees from other divisions for providing an incorrect map of the park and another for not responding to his requests. At this point, Rebar reported to the park every morning to ensure work was completed. The trees were in the middle of the park. The "map" in question is still a mystery. Due to Tripodo's dishonesty, Rebar provided incorrect information to the City Manager. (Exhibit 12)
- Contrary to the clear direction given by Rebar and del Risco during a meeting to discuss reorganization, Tripodo conducted behind the scenes meetings with classified employees advising them where he was going to move them and that they were no longer going to work weekends or nights. He further promised direct appointment to a classified position without a competitive process, which is in violation of City rules. (see Exhibit 20)
- Email between Tripodo and del Risco about the departmental reorganization and staffing. There are no problems mentioned and Tripodo thanks del Risco for his support. (Exhibit 13)

On December 11, 2017, del Risco with the witness of Javier Fulgueira met with Tripodo to discuss his performance and termination. At the time of the conversation Tripodo stated that it was fine that he was being let go because he was quitting the following day because he had another job.

The above are only some examples of the incompetent and deceitful actions employed by Mr. Tripodo during his short three-month tenure with the City.

Ida Smart

Ms. Smart has filed numerous complaints against the City since 2012, at which time she had a negative exchange with a coworker. The coworker, who is also African-American, used inappropriate language when speaking with her. According to the coworker, the two were friends prior to the incident and would often use less than professional language when communicating with each other. However, on that day, Ms. Smart took serious offense to his comment. According to the investigation conducted at the time, both Ms. Smart and the coworker engaged in the use of inappropriate language during the exchange in question. As a result, neither employee was disciplined (Exhibit 14). Ms. Smart has expressed her dissatisfaction with the Administration's response to the incident, as she deemed discipline should have been imposed upon her coworker. Since that day, Ms. Smart has filed numerous complaints against the City for discrimination, which all have been deemed to be baseless and lacking evidence to support them. As previously stated, her most recent complaint with the Florida Commission on Human

Rights in 2017, was found to have no reasonable cause that an unlawful practice occurred (Exhibit 15).

Lee Holmes

Mr. Holmes' chief complaint is that he has been denied the privilege of driving a City vehicle because he was involved in a very serious incident in May 2014 when he ran over and then backed over a citizen in Lummus Park, nearly resulting in the individual's death (the New Times article euphemistically refers to it as "inadvertently running a city vehicle into a sleeping homeless woman"). The citizen was critically injured and the City expended in excess of \$250,000 to end the legal actions that followed. Mr. Holmes was terminated for his negligence leading to the incident, excessive absenteeism, as well as engaging in a physical altercation with his former supervisor (now retired) who Holmes also claimed discriminated against him. Mr. Holmes appealed the decision in accordance with the City's procedures and he was later afforded an opportunity to retain his employment through a last chance agreement extended to him by John Rebar, Director of Parks & Recreation and Jose del Risco, then Assistant Director of Human Resources. At the time, Mr. Holmes had forty-eight prior administrative actions against him for violations of City policies, including three suspensions (Exhibit 16). Mr. Holmes has also filed 28 claims for work related accidents between 1997 and 2017, further bringing into question his credibility and commitment to safety in the workplace. Mr. Holmes claims the decision of the Human Resources Director to not allow him to drive a City vehicle is preventing him from promotional opportunities, as those positions require driving. The decision of the Human Resources Director to not let Mr. Holmes drive a City vehicle is a prudent action and not discriminatory in nature, as Mr. Holmes describes it. Frankly, Mr. Holmes is fortunate to still have a job with the City in light of his past performance and it would be negligent to allow him to drive a city vehicle at this point.

Mr. Holmes also made completely false representations in the article about his transfer out of North Shore Open Space Park. As explained in the attached statements from his managers (Exhibit 17), Mr. Holmes was moved to another work location after his supervisor, also an African-American male, requested he be transferred elsewhere as he (Holmes) was creating tension with coworkers. Tensions grew to the extent that police action was later involved. In addition, serious complaints were made by a park patron regarding Mr. Holmes' continued harassment and other inappropriate behavior toward her, including making derogatory remarks toward her such as referring to her as a "bitch" and driving by her making a "gun sign" using his fingers (Exhibit 18). He was ultimately moved to another facility where he was accommodated at the direction of Mr. del Risco, with a better schedule, consisting of work hours from 7:30 am to 4:00 pm, with Saturday and Sunday off, in order to assist with his family constraints. He was also offered assistance with transporting his child between City facilities in order to further assist with his family needs. Mr. Holmes was never disciplined for any of the allegations made against him by his coworkers and the previously mentioned park patron.

Mr. Holmes recently made a social media posting regarding discrimination within the Parks & Recreation Department. Immediately upon receiving a copy of the posting, Mr. del Risco and Mr. Fulgueira met with Mr. Holmes in order to inquire if anyone was mistreating him in any way. It was explained to Mr. Holmes that there is no place for discrimination of any kind in the workplace and that it is the Administration's duty to ensure all employees are afforded equal opportunity and treated with the respect and dignity they deserve. During the meeting, Mr. Holmes commenced the conversation by stating he was upset because the City was not allowing him to drive, which was preventing him from being promoted. He referenced a meeting that took place with the

Human Resources Director, wherein he was advised he would not be able to drive a City vehicle. Mr. Holmes stated that he was not being mistreated and that discrimination does not exist within the department. He admitted having been upset and frustrated about not being allowed to drive, which is why he made the post.

Yvonne Sepulveda

The allegation that Yvonne Sepulveda was forced to resign her position is untrue and contradicted by evidence, including her retirement letter wherein she gives thanks to Mr. del Risco and Jeremy Hinkle, Parks Operations Supervisor, for what she referred to as great experiences (Exhibit 19). As recently as last week, January 30th, Ms. Sepulveda has remained in contact with Mr. del Risco. Further, during her exit interview conducted by the Human Resources Department, Ms. Sepulveda never raised any such issues.

For the record, the Human Resources Director has reviewed all the evidence and concluded that the complaints of Ms. Smart, Mr. Holmes and Ms. Sepulveda are not based on factual information and are therefore meritless.

One other note, we looked at the petition on change.org in an effort to identify if in fact our employees are expressing concerns. Sadly, few of the names on the petition are public, so we cannot verify. But we did note that of the few names that were public, none of them were employees of the Parks Department.

CONCLUSION

The irony in all of this is that prior to Mr. Tripodo's tenure with the department, operations were running smoothly and no complaints of this nature were received. The catalyst for these baseless allegations was, as noted earlier, Mr. Tripodo's unauthorized communication with classified employees, wherein he made deceitful promises relating to their future work assignments, schedules and locations, in direct violation of existing collective bargaining agreement and City rules. Nothing of what he promised those employees was previously approved by the Administration. In fact, he promised employees work schedules that would entail no work on weekends, evenings or holidays, which happen to be the busiest times for park systems anywhere. As evidenced in the attached email from Mr. Fulgueira, news of proposed changes were started to spread through the organization creating an environment of turmoil (Exhibit 20).

The Human Resources Department has thoroughly investigated these allegations. There is no evidence to support any claim of discrimination or any other type of inappropriate or illicit behavior conducted by John Rebar, Director of Parks & Recreation, or Jose del Risco, Assistant Director of Parks & Recreation. Said allegations are unfounded and lack any merit. Further, the terminations of the two former Park Superintendents, Muia and Tripodo were for reasonable causes and were in the best interests of the City.

JLM/EC/MS

Attachment Exhibits