

City of North Miami Beach
POLICE DEPARTMENT

INTERNAL AFFAIRS INVESTIGATION REPORT

DATE: APRIL 4, 2012
TO: INTERIM CHIEF LARRY GOMER
FROM: SGT. RICHARD SILBERMAN
VIA: INTERNAL AFFAIRS
RE: IA0305.12

SUBJECT

Administrative review of incident in City Manager's office involving Councilman Frantz Pierre and City Employees Antonio Ortega and Robert Barrabeitg.

PERSONS INTERVIEWED

Antonio Ortega
Robert Barrabeitg
Eric Wardle
Ben Supraski
Lyndon Bonner
Shonta Renee Darden
Frantz Pierre
Darcee Siegel

CASE DOCUMENTATION

Interview notifications
Service Work Order #179831
Transcribed statements of:

Eric Wardle
Antonio Ortega (2)
Paul Robert Barrabeitg
Lyndon Bonner
Ben Supraski
Renee Darden
Frantz Pierre

Letter to H.R. from Antonio Ortega (3/15/2012)
Letter to Robert Barrabeitg from Antonio Ortega (3/15/2012)
Memo to H.R. from Robert Barrabeitg (3/15/2012)
Memo from Eric Wardle to Chief Gomer (3/20/2012)
Email from Eric Wardle to Sgt. Silberman 3/19/2012 (complaint from Kienzle)
Copy of blog article from www.Votersopinion.com ("Instant Karma's Gonna Get You")
Copy of blog article from www.Votersopinion.com ("The Frantz Files")

SUMMARY OF STATEMENTS

NAME INTERVIEW DATE

Eric Wardle 3/19/2012

Mr. Wardle is the Code Compliance Manager for the City of North Miami Beach. Wardle stated that he received an email complaint from Mrs. Stephanie Kienzle on March 4th, alleging that there was multi-family use at a residence located at 2120 NE 171 St, which is Councilman Frantz Pierre's residence. The email indicated that there were numerous people living there that were unrelated, and individuals with different last names registered to vote at that address that may not be living there. Wardle stated that the voter registration issue is not a concern of code enforcement, but multi-family use of the residence would be.

Wardle stated that he informed the City Manager of the complaint. As part of his investigation, Wardle stated that he wanted to check the water usage at the residence, as that might give him an indicator of whether there were a lot of people or few people in the house. Wardle contacted Customer Services Asst. Director Ben Supraski and asked him for the average water usage for Pierre's residence. Wardle stated that Supraski advised him that there hadn't been an actual water meter reading recently and the last reading was only an estimate. According to Wardle, Supraski told him that he would send someone out to read the meter to get an accurate reading and also check for leaks. Wardle stated that he told Supraski that he didn't really need to do that, Wardle just needed an estimate, however Supraski told him "No, we would have to do this anyway because the meter really should be read."

Wardle stated the next thing he knew, two police officers came in a couple of hours later and asked if he had ordered Customer Service to go out and do a meter reading. Wardle stated he told the officers that he had only requested an estimate and didn't order anyone to go out and read the meter. "That's not my job" stated Wardle. Wardle stated that multiple people living in a home that are related by blood or marriage would not be a violation of code, however 3 or more individuals unrelated and with different names would be.

According to Wardle, the City Manager and City Attorney arranged for Councilman Pierre to provide a sworn affidavit to the fact that those individuals currently living in his home were in fact all related, which Pierre provided, however when Wardle went to the City Clerk's office to get a copy of the affidavit, he was informed by the Clerk that the affidavit was withdrawn and any copies were destroyed at the request of Councilman Pierre after his consulting with his personal attorney.

Wardle stated that he had made the City Manager aware of the complaint and that he was following up on the matter. The City Manger, according to Wardle did not give any instructions other than to indicate to Wardle to do what he needed to do.

Wardle provided no further information of value to this investigation.

ANTONIO ORTEGA 3/19/12

Mr. Ortega was interviewed as a complainant and provided a sworn, taped statement. Ortega stated that on the date in question, he reported to work and obtained his work orders. He stated that he responded to 2120 NE 171 St. to check for a leak per a work order. He stated that he knocked on the door to let the customer know, which is their standard procedure. Ortega stated

INTEROFFICE MEMORANDUM

that there was no answer when he knocked, so he proceeded to go to the meter. As he began checking and documenting his time, a couple of people came out from the back, including a woman. They approached Ortega and asked him what he was doing. Ortega advised them that he was checking for a leak, and to please not use any water for five minutes. Ortega advised that one of the individuals handed him a telephone and said, "Somebody wants to talk to you." Ortega stated that it happens often that he'll be working and the owner of the home will request to speak with him.

Ortega stated that as he said "Hello?" on the phone, the other party on the phone said, "Who are you?", Ortega stated, "Antonio Ortega from the City of North Miami Beach Water Department." The other person then said, "What the hell are you doing in my house?" Ortega stated that he explained that he was there to check for a leak on a work order." The other party then told Ortega, "Well, you better come here to the City Manager's office right now."

Ortega stated he responded back to City Hall and reported to his supervisor Robert Barrabeitg about an angry customer having called from the City Manager's office, and that they wanted to meet with him up there. Ortega stated that Barrabeitg told him that he would accompany him and they responded to the City Manager's office. When they arrived at the City Manager's office, Ortega stated that he saw Councilman Pierre who then stated to the City Manager, "The employees are here." Ortega stated that he handed the City Manager, Mr. Bonner the work order for the leak check, at which point Pierre grabbed the clipboard started reading it, then threw the clipboard down on top of the table saying, "I know it, I know it." Then Pierre went back and grabbed a chain and slammed it down on the floor. Ortega stated that Pierre then looked at him and said, "You're a fucking Liar. Are you calling me a liar to my face?" Ortega stated that Pierre was angry and out of control. At which point Ortega stated, "Excuse Me?" and the City Manger intervened and said, "I think there's a misunderstanding here, can you two go out?" at which point Bonner grabbed Pierre by the shoulder and said, "Come, I got to talk to you." Ortega stated he and Barrabeitg then left and went to the Police Department to file a report.

Ortega stated that he was not aware at the time he was at the residence, that it was the home of Councilman Pierre. The work order Ortega was given had the name of Joseph Angie listed on it. Ortega stated that he never asked to enter into Pierre's residence, as that is not part of their scope of work or protocol for what they do. He stated that they normally knock on the door and ask occupants not to run any water for approximately 5 minutes so that they can accurately check the meter for any water leaks.

Ortega stated that when he was handed the telephone outside the home, Pierre did not identify himself to Ortega and he had no idea who it was. Ortega stated that he has never had direct interaction with Pierre and only knew him from his pictures. Ortega stated that Pierre was very angry and verbally abusive. Ortega stated that Pierre did not make any direct threats against him, but felt the anger was directed at him and felt that his job might be in jeopardy.

Ortega stated that after making the police report, the City Manager came down and spoke with Ortega and Barrabeitg, apologizing on behalf of the councilman. Ortega stated that after that, he was handed a phone by another co-worker by the name of "Paul" who was speaking with Councilman Pierre and spoke with Pierre who Ortega states, "apologized" to him, saying that it was nothing to do with Ortega and that "it was political things." Ortega stated this occurred the same day of the incident. Ortega stated that "Paul" goes to the same Church as Pierre.

INTEROFFICE MEMORANDUM

When asked about the two letters that Ortega submitted, Ortega stated that he personally wrote them and no one assisted him in writing them.

Paul Robert Barrabeitg

3/19/2012

Mr. Barrabeitg was interviewed as a witness employee in this case, and provided a sworn, taped statement as to this incident. Barrabeitg stated that he has been employed with the City for the past 17 years, all of it serving in the Customer Service department.

Barrabeitg stated that on the date of the incident, he had distributed the service work orders to his personnel, including Ortega. Barrabeitg stated that Ortega came back to the office later and informed Barrabeitg of the incident in which he was checking for a water leak at a residence when he was ordered to come to the City Manager's office due to an irate customer he spoke to on a phone. Barrabeitg stated that the work order did not have the Councilman's name on it and he didn't learn it was Councilman Pierre's residence until later.

Barrabeitg accompanied Ortega to the City Manager's office and when they arrived, they saw Pierre there with City Manager Lyndon Bonner. Barrabeitg stated that Pierre asked Ortega and Barrabeitg into the office, then asked them, "What were you doing at my property?" Ortega then explained that he was there to conduct a leak check and meter read, at which point Bonner asked, "Who requested this work to go to his property?" Bonner was then shown the work order, at which time Barrabeitg states that Pierre "snatched the clipboard from Bonner's hand to read it. Pierre then began screaming, "What the fuck is going on here?" What the hell is this shit? I can't believe this shit. See what goes on here?" Barrabeitg further stated, that Bonner then retrieved the clipboard and was about to give it to Ortega, when Pierre grabbed the clipboard and slammed it against Bonner's desk. Barrabeitg stated that Pierre then began to walk away from Bonner, "grabbed a chair, tried to lift it. But when he was trying to lift it, he threw it against two other chairs that slammed into each other in the corner side of the room, toward the back door, like right before the secretary sits outside the door.

Barrabeitg stated that Pierre then started screaming at Ortega, telling him, "you calling me a fucking liar? Who the hell do you think you are? I'm not a fucking liar." "He (Pierre) just went crazy screaming for no reason. We didn't understand why." Barrabeitg stated that at that point, Bonner intervened and asked Barrabeitg and Ortega to please leave and that he would take care of it from there. Barrabeitg stated that he and Ortega then left the City Manager's office. Barrabeitg stated that Ortega was very upset and asked if he could file a police report, to which Barrabeitg told him he could and it was up to his discretion. Barrabeitg stated he accompanied Ortega because he was very upset about the whole situation.

Barrabeitg stated that Ortega hadn't said anything to precipitate Pierre's behavior. Barrabeitg stated that he was initially unaware that the work order address was Councilman Pierre's residence, as the order had a different name of Joseph Angie on it. Barrabeitg stated that the work order was to check for leaks and get a meter reading. Barrabeitg stated that Ortega did in fact find a leak in the system. Barrabeitg stated that he was unaware of any prior water usage history at the residence since they don't monitor water usage, and the work orders come from different individuals.

INTEROFFICE MEMORANDUM

Barrabeitg stated that it did not appear that Pierre was trying to throw the chair at anyone when he grabbed it and slammed it down, rather it appeared that he was venting his frustrations and "blowing off steam." According to Barrabeitg, Pierre did not make any threats towards either he or Ortega, however Barrabeitg stated that he was concerned for his job after the incident. He stated, "Whose job wouldn't be in jeopardy dealing with the councilmen? I mean they could, they could...they could judge and bend any rules they want to, to be able to control what they want. And if they're unhappy with the employees, they'll just tell the city manager; I don't want them employed here. And you're gone."

Barrabeitg stated that after the incident, Bonner came to see them the same afternoon, and offered his apology as well as assistance from Human Resources pertaining to any concerns they may have, in case they felt that they were mistreated. Barrabeitg stated that Bonner also swore that their jobs were not at stake, and that they should never have been encountered by Councilman Pierre in any way and manner, and that it's against charter rules, according to what Bonner said. Barrabeitg stated that he has not had any other contact with Councilman Pierre since the incident.

LYNDON BONNER

3/20/12

Mr. Bonner responded to a request to provide a sworn, taped witness statement. Mr. Bonner is the City Manager for the City of North Miami Beach. Bonner stated that on the incident date, he had a scheduled meeting with Councilman Pierre to go over agenda and other business items, as is usual for him and other members of the City Council. While reviewing some requested material delivered by another employee, Bonner stated that Pierre received a phone call and stepped out of Bonner's office and into the hallway. Bonner states that Pierre then came back into the office and told Bonner that there was someone at his house who "wanted to go in the house to check for leaks." Bonner stated that he thought it strange, since that would be against city policy. Bonner stated that he advised Pierre not to let anyone in the house and that if it's a city employee, they should have credentials. Pierre told Bonner that it was a City Employee. Bonner stated that he then called down to the Customer Service Supervisor, Ben Supraski to inquire about employees going inside homes to check for leaks. Bonner stated that Supraski told him that it was against standard operating procedures to do so.

Bonner stated that Pierre had stepped out of his office, but came back in saying that the person had credentials, and wanted to go inside, to which Bonner again told Pierre "We don't do that." Moments later, Bonner stated that Pierre then says, "They're here right now." Bonner stated that two employees arrived at his office, the meter reader and his supervisor. Bonner stated that one of them had a clipboard, and Bonner looked at the clipboard to see what was on it. Bonner stated that he was told it was the work order. Bonner stated that he asked if they had gone in the residence and was told that "no, we didn't ask to go in the house, we just advised them that we're there, don't turn your water on and we can check to see if you have leaks on your side of the meter."

Bonner stated that he didn't recall if he had the clipboard in his hands, however it ended up in Councilman Pierre's hands. Bonner wasn't sure if Pierre had taken the clipboard from his hands or from one of the employees. Pierre then pointed to the clipboard and stated that it was Eric Wardle who ordered the "water check." then Pierre "forcefully put it down on the desk." Bonner stated, "I know that it said something about 'it was slung' but this is my desk and hit here. It didn't

INTEROFFICE MEMORANDUM

go very far at all. So I think that might've been a little bit of an emotional exaggeration. But yeah, he did put it down wrong. And then, at that point, the councilman, he was using some explicatives [sic], which are, you know, inappropriate. His conduct, um, just using that tone, that voice is... was bothersome to me. And then, he did go back over around that chair, and get to his chair, while he was using these explicatives [sic], and he grabbed the chair just like that." You know, very frustrated and all that. At that point in time, I instructed the employees to leave the room."

When asked what specifically Pierre said, Bonner stated, "The explicatives [sic] that, you know, 'Calling me, uh, explicative liar.' 'He's calling me a liar,' or 'They're calling me a liar.' Like that. Um, that was really the, the trigger point for me. It's time to go.' Bonner stated that after he sent the employees out of the room, "the councilman and I started to have a frank discussion about what you can do with the employees and what you can't do whether it's in my office or not and whether you're a councilperson or not. A very frank conversation. No raised voices, no nothing. And in just a matter of a couple of moments, the councilman, he apologized. Said, "Yup, I was wrong. I shouldn't have done that."

Bonner stated that he contacted Ben Supraski and advised him that he wanted to meet with the employees. Supraski came up to Bonner's office and explained their procedures in detail, as to what the policies are and how they don't enter homes. Bonner stated that Pierre was much more composed at this time, and expressed his regret and apologized, saying that he wanted to meet with them as well. Bonner told Pierre, "Not yet, I want to make sure they hear it from me. If they have some reservations about being around you that will be revealed to me then."

Bonner stated that a police officer came up to the office and explained that two employees had come to the police department and made a complaint. The officer said something about someone throwing a chair? Bonner stated that he informed the officer that, "No, that didn't occur." Bonner felt that this is where there was some confusion about someone mentioning a chair being thrown around.

Bonner stated that Ben Supraski had written up the work order at the request of Eric Wardle, and that had he been aware of what was transpiring, he maybe could have headed this whole matter off. Bonner stated that the request for the work order was apparently in response to a complaint by Mrs. Stephanie Kienzle. Bonner surmised that Pierre reacted on a notion that somehow Code Enforcement was overstepping their bounds, and took exception to it. Bonner stated that he described it to Pierre as "he's (Wardle) actually following a pretty efficient, investigative process." Bonner stated that with what had occurred, in reading the councilman's water meter, they discovered that he did in fact have a leak at his house. The idea was that if the reading was unusually high, (excessive water use) it would have corroborated the comments by Kienzle, or dispel it.

Bonner stated that he did not recall any conversation with Wardle in regards to the request for the water meter read prior to this incident. He stated that although he wouldn't have thought of it, it was a conservative investigative tool available to Wardle. He was, however aware of the email sent by Kienzle.

Bonner stated that later that afternoon, he did meet with the two employees and expressed his apologies, as well as the councilman's for his outburst. Bonner stated, "it was inappropriate. I wouldn't tolerate it from any other employee, whether it was a councilman or not." Bonner stated that he let the employees know that there was no retribution coming via his office, and reiterated in the presence of Ben Supraski, "No one's getting fired here unless I get fired." Bonner stated,

INTEROFFICE MEMORANDUM

"The employee didn't do anything wrong here." And, "I don't think Eric (Wardle) did anything wrong either."

Bonner stated that while he encourages dialogue between members of the Council and City employees, there is a chain of command to follow when it comes to business, and that Council members should not direct, threaten or coerce city employees.

BENJAMIN SUPRASKI

3/19/12

Mr. Supraski responded as requested and provided a sworn, taped statement. Mr. Supraski is the Asst. Director / Manager of Customer Service for the City of North Miami Beach.

Supraski stated that on March 14th, he had received a call from Code Compliance Manager Eric Wardle, who was requesting information regarding water usage at a residence, which Supraski stated he recognized as being that of Councilman Pierre's. Wardle had inquired about whether there was an inordinate amount of water usage. Supraski stated he researched the account and found that the usage report was based on an "estimated reading" not a physical one. In order to be more accurate, a physical reading is required. Since it had already been five months since the prior reading, Supraski stated that he submitted a work order to check for leaks and get a meter read on the residence. Supraski stated that he then asked the supervisor, Robert Barrabeitg to expedite the request for that afternoon.

Supraski stated that at approximately 1:30 that same afternoon, he received a call from the City Manger, Lyndon Bonner, who asked Supraski about the protocol for checking for water leaks. Supraski explained the procedure to Bonner, and then asked whether "we go into the property?" to which Supraski advised, "Absolutely not." Supraski stated that Bonner asked him to respond to his office. Supraski stated that he received a phone call from Barrabeitg about 10 minutes later, and Barrabeitg seemed very upset, and advised Supraski that he needed to return right away, that there was an incident in the City Manager's office and that he and Ortega were headed over to the police department.

Supraski returned to City Hall and responded up to the City Manger's office where he met with Bonner and Councilman Pierre. He stated that he was then informed that there was an incident in the Manager's office and that Supraski's employees conducted themselves properly and that Bonner would be down later in the day to talk to his staff to make sure that they knew everything was fine. Supraski stated that Pierre said that he wanted to come along to apologize, however the Bonner told Pierre that it would not be necessary, he would take care of the matter.

Supraski stated that when Barrabeitg called him, he had said something about a chair being thrown around. Supraski stated that when the employees went out to handle the work orders, they were not made aware that the residence in question was Councilman Pierre's house. The account owner of record for the water bill is listed as Angie Joseph.

SHONTA RENEE DARDEN

3/19/12

Ms. Darden responded as requested and provided a sworn, taped statement. Darden is employed by the City in the capacity of Domestic Violence Specialist for the police department.

INTEROFFICE MEMORANDUM

Darden stated that on the date in question, she was temporarily assigned to answer phones in the City Manager's office due to the manager's secretary being out.

Darden stated that at some point, Councilman Pierre was in the City Manager's office, then two gentlemen came into the office. Shortly after they entered, Darden states that she heard some profanity. She heard some reference to "liar", however due to her positioning, she could not physically observe what was going on in the office, or who said what. Darden stated that the profanity she heard, was the "F-bomb", however she couldn't provide the context in which it was used. Darden stated that she believed the voice to be Pierre's, but since she couldn't see, she couldn't account for it. Darden stated that she also heard what seemed like the rumbling of a chair, but again, she couldn't see exactly what it was.

Darden stated that the whole incident didn't last long at all. The next thing she saw was the two gentlemen leaving and the City Manager saying "Thank you" to them.

Darden was unable to provide any further information.

FRANTZ PIERRE

3/26/12

Mr. Pierre is a Councilman for the City of North Miami Beach. Pierre provided a sworn, taped statement regarding this matter. Pierre questioned repeatedly the protocol for this matter having to be investigated by the police department after he had already provided a statement to a police officer shortly after the incident, which was document in an offense / incident report. It was explained to Mr. Pierre that this was a review of the incident at the request of the City Manager.

Pierre was given an opportunity to read both memorandums written and submitted by Ortega. Pierre stated that he disagreed with everything that happened. He took exception to the fact that Ortega wrote two memos (reports as Pierre referred to them), and also alleged that Ortega called him telling Pierre that he was "forced, coerced, intimidated to write this report against me." Pierre was advised that his allegation would be looked into. Pierre continued on this topic and advised that Ortega called him on his cell phone; however, Pierre could not find the entry in his phone. Pierre stated, "my problem is, if he told me voluntarily that, he call me on my phone... I'm gonna show you the date and time. I didn't call him. I don't know how he got my phone number. He said, 'I'm sorry. I was forced to do this.'"

Pierre stated that Ortega allegedly gave him names of the people that supposedly coerced him to write his memorandums. Pierre stated that he then asked Ortega if he would go with him to see the City Attorney on Monday to relate this information. Pierre stated that Ortega gave him the names, and also gave them to the City Attorney Darcee Siegel. Pierre was asked for the names he claimed Ortega gave him, however, Pierre did not want to disclose them, and rather he wanted Ortega to provide them.

As to the incident, the following was excerpted from Pierre's sworn statement:

"I was with the City Manager in his office. We were going over some city business when I get a call from home. And I was told there's a city employee asking to get inside my house to fix a leak. I said, "City employee?" He said, "Yeah, he's here. He's outside, outside the door right now." And I say, "Put him on the

INTEROFFICE MEMORANDUM

phone." I say, "Sir, my name is Frantz Pierre. I'm the owner of the house. And I understand that you've got, uh, uh, an order to come to my house, uh, to do a leak?" He say, "Yes, I do have one because somebody call for an inspection." I say, "I'm the owner. I didn't make the call. My wife didn't make the call. I don't know why you're here." He say, "I got a copy of, uh, a work order in my hands right now." I say, "Okay. I'm with the city manager. Why don't you come over here and bring, uh, uh, the work order so I will ask the manager to clear it. It is standard practice to send somebody over people house without their knowledge and ask to get inside?" That was my understanding, to the inside. But after he met with me, he say, "I was, uh, I was told to come to the house," but, uh, uh, in the translation, I think there were THINGS he didn't mention, but he say, "I was told to come to the house." Uh, the city was asked to go inside my house, but you see that's why we met, to come to the house. Okay. And then the manager and I was there. Like two minutes later the guy was upstairs with, uh, another guy he identified as his supervisor. And I say, "Where is the work order?" And I see. I say... and when I look at it, I saw that it came from a guy named Eric Wardle. And I say, "Mr. Manager, I got...this guy got a work order from a guy by Eric Wardle. I know he's not working in the water department and he's not working customer service. How is he allowed to give a customer service employee an order to go to my house to check for leaks?" And the manager replied, "Councilman, I don't think Mr. Wardle has nothing to do, to do with it." I say, "That is him, black and white, Eric Wardle." At this time, and I became, uh, angry. I drop, uh, the work order. It was a clipboard with a few sheet of paper on his desk. I said, "Sir, I need you, the city manager, you to give me explanation how an employee who has nothing to do with water department, who has nothing to do with, uh, meter reading ordering an employee to go to my house." And the manager took the clipboard. Like I say, he say, "Did Eric Wardle send you?" He say, "I don't know, sir. I just got a work order." Did you tell Councilman Frantz Pierre that, uh, you got an order to go to his house?" He said, "No, I did not say that." At that time I became very angry. I said, "Sir, THIS WILL BE MY POINT, you're an F liar. You told me on the phone that you had an order from Eric Wardle to go to my house. Now you deny it." He said, "No, they told me that too on the phone." So that was the only inappropriate word I use in the conversation, but I was very upset, like I told you. But there was no chair grabbing, no chair throwing, no, no work throwing, no, nothing of that nature. So we sit down. After we explain to each other, the manager asks both employees to leave. We went over the incident. The manager placed a few phone calls. And then he determine it was a miscommunication, there was no need to, to be upset, there was no need for the employee to write, there was no need for him, uh, for Eric Wardle to improperly bypass his wall, to, uh,

INTEROFFICE MEMORANDUM

to ask another department head to send an employee for whatever reason was doing it. So we went over those like that, and then we, we decide for the sake of the city, we both need to apologize to the employee, uh, to the employees. He said, "Okay. As the manager, I will do it on your behalf. There is no need for you to go, and I will do it." As far as I'm concerned, the incident was closed that same day, that very same day. That was it. But I was surprised because that same day I got a call from the employee who apologized, say, uh, "Councilman Pierre, I never mentioned it before, but that's when we all were upset, but I'm only an employee. Don't be mad at me." I said, "No, no. It's a de-, it's a, it's a closed incident. In fact, I was supposed to come with the manager to apologize, so, but the manager decide to do it on his own. He say he will do it on my behalf, so I guess it's a closed incident." The following Saturday, the Saturday the 17 at about 3:57 p.m. I receive a phone call on my cell phone from that employee, Mr. Antonio, uh...that's the employee, the meter reader.

Silberman: Ortega.

Pierre: Yeah. Ortega. He say, uh, he introduce himself as a city employee. As a resident he would like to speak with his councilperson. And then when we met, once again he apologize for the incident. He say, "I, uh, I request to meet with you because what they do to you is not right. You have enemies over there. They don't like you." I say, "What are you talking about? When you say they, can you be more specific?" He say, "You know, my, uh, bosses asked me to write that letter against you. And then, uh, they didn't like. Uh, they asked me to write another one." I said, "What the purpose? Why?" He said, "I don't know. They don't like I do the politic, but I'm only an employee. They ask me to do it, and I did it. So if you say anything, it has nothing to do with me. I was forced to do it." That's the word he used. "I was forced to do it." And I say, "Well, I do not have ways of proving it. Would it be okay if you'll go to the city attorney with me on Monday and to tell her in front of me the exact same thing that you told me, that you voluntary call me, you voluntary offer some information on, on those reports." He said, "I don't have problem doing it. I will do it after work at five o'clock." And exactly at five o'clock I was at the city attorney's office. By 5:01, 5:02, he showed up. And he said, "Councilman Pierre, here I am, but I won't be able to disclose much because I met with the police department this morning. They say this is an investigation, and if I say anything, I may be either fired or arrested, so I don't want to be fired, I don't want to be arrested." I say, "I'm not asking you to disclose anything. The only reason I brought you in is because you promised me on Saturday to come voluntarily to Darcee and to tell her the exact same thing that you told me. Uh, uh, uh, is, is that

correct?" He said, "Yes, I did tell you everything, that you mention that I told you, but I'm not willing elaborate since there's an investigation." So that's all I know. As you can see, you are a big man, you've been in this for a long time and you know the environment, you know, uh, there's nothing out of the ordinary. If an incident was done, that same day the manager apologize. Both of us supposed to go. He say he will do it on my behalf, and he did it. The employee' call. We shake hands. It was closed incident.

According to Pierre, a couple of hours after the incident on the 14th, Ortega called him on the phone "to say he understand what happen and then, uh, he apologize, I apologize. It was a minor incident. Okay. It was misunderstanding. We both had concluded."

Pierre stated that Ortega "confessed to Darcee that he did spoke with me, that everything that I mentioned he did say."

ANTONIO ORTEGA (2nd Interview) 03/28/12

Mr. Ortega was brought in for a second, follow-up interview due to conflicts between his and Councilman Pierre's statements. Mr. Ortega voluntarily provided a second sworn, taped statement to this investigator.

As to the allegation made by Councilman Pierre that Ortega was assisted, coached, coerced or told what to write in his memos, and that Ortega provided Pierre with the names of the three employees who did so...Ortega stated that he did not have this conversation with Pierre.

Ortega stated that he did not call on the 14th as stated by Pierre, since Ortega states that he did not have Pierre's number. Ortega stated that Pierre called another Customer service employee's phone (Paul Desir) and asked to speak to Ortega.

Ortega stated that Pierre did in fact ask him to come to City Attorney's office on Monday, the 19th. When asked why he asked him to go there, Ortega stated "He try to use me. I have no idea. When I get up there, I say, "I'm being investigated, and you can call the city up and ask him. I cannot talk." And they he say...and I say, "I'm under investigation. Until the investigation, they don't finish, I cannot talk about it."

Ortega stated that after he had spoken to Pierre on Paul's phone, Pierre told Paul to give Ortega...Pierre's number so that he had it in case he wanted to talk to him. Ortega stated that Pierre then called him on Saturday the 17th from "a friend's cellular. Then say my battery died, dead, and can we meet? And we agree we're gonna meet. And then he's in...then I'm calling him when I get to Denny's. And up here I call him on his cellular, but he call me first. I no call him first."

When asked about their meeting at Denny's, Ortega stated that Pierre "asked me about the letter. I say "Yes, I wrote the letters." And he asked me a couple of times, "do you write or somebody do"...uh, "I write it myself."

Ortega stated that he never told Pierre that someone else told him what to write in his letters. When told what Pierre alleged, Ortega stated, that was not true. Ortega stated that Pierre did not threaten him in any way. The only concern Ortega had was that Pierre placed his cell phone on the table as they spoke, and Ortega got an uneasy feeling that their conversation was either being recorded or the line was open with someone else listening to the conversation.

When asked about why he met the Councilman at Denny's Ortega indicated that it was more of a friendly gesture, however he just felt uneasy about his job security, and he felt that after this issue is resolved, he might lose his job. He stated that Pierre was nice during the meeting. Ortega stated that he never told Pierre that he had enemies. Ortega stated, "I don't know. I only work there. I don't know. I'm not a politician."

Ortega reiterated that he wrote the letters himself, and that nobody told him to do anything. He wrote them because he felt hurt at that time.

DARCEE SIEGEL

3/26/12

Mrs. Siegel is the City Attorney for the City of North Miami Beach. Mrs. Siegel was asked about statements made by Councilman Pierre in which he claimed to have responded to her office on Monday, March 19, 2012 with Antonio Ortega. Siegel stated that she remembered Councilman Pierre coming up with Ortega, however Ortega had stated that he had been interviewed by the Police Department and that he was told that he was not allowed to discuss the case, therefore he did not provide Siegel with any information. Siegel stated that to her recollection, Ortega did not provide any names or other information in regards to this case.

CASE FACTS AND SUMMARY OF INVESTIGATION

On Wednesday, March 04th, 2012 an email was received by Code Compliance Manager Eric Wardle, indicating that there may be multiple families living in a residence belonging to Councilman Frantz Pierre, which if true, may be in violation of City Code.

Wardle, requested water consumption information from the City's Customer Service Department, as a tool to provide measurement as to whether there was above average consumption at the residence, which may help prove or refute the allegation.

Customer Service Asst. Director Ben Supraski, noting that there hadn't been a physical reading on the residence's meter recently, composed a work order for a meter read and leak check.

On Wednesday, March 14th, 2012, Antonio Ortega, who is a water meter reader for the City, received the work order. Ortega responded to the residence to follow the work order. Ortega received no answer at the door and proceeded to check the water meter on the exterior of the residence. Ortega was approached by occupants outside of the home,

INTEROFFICE MEMORANDUM

where he explained his presence and purpose. He was handed a phone by one of the occupants, and spoke to a person who claimed to be the homeowner. The homeowner told Ortega that he was at the City Manager's office and Ortega should respond there now.

Ortega returned to his office and told his supervisor there was an angry customer in the City Manager's office and he was instructed to report there. Ortega and his supervisor responded to the City Manger's office together, where they found Councilman Frantz Pierre in with the City Manager. When they entered the City Manager's office, Ortega was questioned about his presence at Pierre's residence, and he presented the work order he had received. As the City Manger was reviewing the work order, Pierre grabbed the work order from the Manager and became verbally abusive, throwing the clipboard with the work order onto the manager's office desk. Pierre admittedly used some profanity and grabbed an office chair in anger. This behavior was witnessed by Ortega, Barrabeitg, and Bonner and heard by the secretary outside the office door.

Upon review of the work order and follow-up by the City Manager, it was determined that everything was done properly and in order. The City Manger calmed the Councilman down and explained what had transpired. The manager subsequently went down to meet with the affected employees and apologized for the incident on behalf of himself and Councilman Pierre.

Pierre subsequently called another worker and asked to speak with Ortega. Both apologized for the incident. Ortega was provided with Pierre's cell phone number and told to keep it in case he needed it.

Ortega was called by Pierre on Saturday, March 17th, and asked Ortega to meet him at Denny's. Ortega figured that Pierre wasn't satisfied with the way thing were handled and agreed to meet Pierre. During a brief meeting at Denny's, Ortega stated that Pierre was cordial, however questioned him several times whether Ortega had written the two letters (memos) that Ortega had submitted or if someone else coerced helped him write them.

Pierre provided a different account, in which Pierre originally insisted that Ortega initiated the phone call to Pierre and wanted to meet him to apologize and during that meeting, Ortega told Pierre that he was forced or coerced by three employees to write those letters. According to Pierre, Ortega told Pierre that he had enemies that were out to get him. Pierre stated that Ortega agreed to go to the City Attorney with him to tell her about this on Monday.

On Monday, March 19th, 2012 Ortega met Councilman Pierre at the City Attorney's Office. According to the City Attorney, Darcee Seigel, Ortega did not provide any information regarding this matter, stating that Ortega mentioned that he had spoken to the police earlier in the day and was ordered not to discuss the case until the case was closed. Siegel could not therefore corroborate the information as stated by Pierre.

Phone records provided by Ortega showed that he was called first by Pierre from an unknown number, and Ortega subsequently called Pierre back later on Pierre's cell phone. Pierre then confirmed this as "possible" during a brief meeting with this investigator on April 9th.

On Monday, April 9th, 2012 at approximately 11:33 am, Councilman Pierre responded to the station pursuant to my request for a copy of his cell phone records. This request was made due to statements made by Pierre in that he claimed that Ortega had contacted him wishing to meet with him to apologize for the incident. Ortega had provided a conflicting statement indicating that Pierre called him on a Saturday from a different phone, and then requested that Ortega call Pierre at Pierre's cell phone. Pierre questioned this investigator's request for his cell phone records, and was explained the reasoning for the records to corroborate his account of what transpired. Pierre then stated that it was possible that he called Ortega first, but wasn't sure. Ortega did provide a copy of his cell phone records for the date in question, which showed he was called first, then subsequently called Pierre on his cell phone.

Pierre again reiterated his previous allegation that Ortega told him that he was coached by other individuals on what to write, when he submitted his memorandums to Human Resources. Pierre stated that Ortega told him that "people were out to get him (Pierre)" and provided Pierre with the names of three employees whom, allegedly coached / coerced Ortega. Pierre was asked to provide the names of the 3 employees told to him by Ortega, but Pierre refused to divulge the names saying that I should get them from Ortega. I informed Pierre that Ortega denied having been coached or coerced by anyone when confronted by Pierre's allegation. Pierre was again asked to provide the names of the three employees, and Pierre again refused to divulge the names. I explained to Pierre that this information might help corroborate his account of what had transpired, however Pierre was not willing to cooperate with this request. I informed Pierre that without corroborating information, and all evidence on either side being equal, the matter may end up being deemed "Inconclusive" to which Pierre replied to me, "**then let it be inconclusive.**"

FINDINGS

After reviewing all sworn statements, it was determined that Mr. Ortega was simply doing his assigned work, when he responded to Councilman Pierre's residence on the date in question. A work order for a meter read was entered at the request of Code Enforcement Manager Eric Wardle as part of an investigation into a complaint submitted by City resident Stephanie Kienzle. There was no improper action on the part of the employees found. Subsequent to the work being performed, Ortega responded to the City Manager's office at the request of Councilman Pierre, who was unknown to Ortega at the time of being asked to the Manager's office. Inappropriate conduct and language on the part of Councilman Pierre was witnessed by and attested to by the City Manager Lyndon Bonner, Antonio Ortega, Robert Barrabeitg and temporary clerical assistant Rene Darden.

Councilman Pierre acknowledged his inappropriate conduct during his interview. Another area of concern would be Pierre contacting Ortega on Saturday the 17th, requesting to meet him at Denny's. Had it been solely to apologize for the incident (which had already been done), it would not be as disconcerting as the Councilman conducting his own investigation and questioning Ortega about the memorandums / letters he submitted. According to Ortega, Pierre questioned him several times about writing the letters, which again would be inappropriate for a Councilman to be

questioning a city worker in this manner. The matter has been deemed, non-criminal in nature.

POLICY FAILURE

There was no policy failure noted in this investigation.

RECOMMENDATIONS

Because City employees, which includes Mayor and Councilmembers, do not fall under the authority of the police department, the conduct issues noted herein regarding Councilman Pierre, are to be referred to the City Manager's office as well as Human Resources, to determine what City policies and/or procedures have been violated (if any). Any action deemed necessary should be addressed by the City Manager's Office through proper protocol.

This report respectfully submitted by:

Sgt. Richard Silberman
Internal Affairs Supervisor

FOR USE BY OFFICE OF THE CHIEF OF POLICE

I HAVE READ THE FOREGOING REPORT AND:

CONCUR WITH THE FINDINGS DO NOT CONCUR WITH THE FINDINGS

Comments:

Chief of Police

Date