

# City of Miami

3500 Pan American Drive  
Miami, FL 33133  
www.miamigov.com

## Meeting Minutes

Tuesday, June 15, 2021  
10:00 AM  
Commission Chambers

### Civil Service Board

Troy Sutton, Chairperson  
Rodrigo Jimenez, Chief Examiner  
Rafael Cabrera, Board Member  
Ulysses Garcia, Board Member  
Travis Lindsey, Board Member

### Pledge of Allegiance

The meeting was called to order at 10:04 am, with the Pledge of Allegiance. At commencement of the meeting, attendance was as follows:

Attendee Name	Title	Status
Troy Sutton	Chairperson (At-Large)	Present
Rodrigo Jimenez	Chief Examiner (At-Large)	Present
Rafael Cabrera	Board Member (At-Large)	Present
Ulysses Garcia	Board Member (Elected)	Present
Travis Lindsey	Board Member (Elected)	Present

### Adoption of Agenda

Chair Sutton asked if there were any revisions to the Agenda. Hearing none, a motion to adopt the Agenda as printed was considered and resulted as follows:

Motion by Board Member Jimenez, seconded by Board Member Cabrera, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

#### 1. Approving of the Minutes

A.1 Civil Service Board - Regular Meeting - Jun 1, 2021 10:00 AM

A motion was entered to approve the Minutes as presented, which resulted as follows:

Motion by Board Member Lindsey, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

### B. Personnel Matters

B.1 Copy of a memorandum from Chief Joseph E. Zahralban, Director, Department of Fire Rescue, requesting an extension of probationary period of Sabrina Sanchez, Emergency Dispatcher, six (6) additional months beyond June 29, 2021. (DISCUSSION)

Following an appearance by Sabrina Sanchez, Emergency Dispatcher, the Board entered a motion to GRANT the extension as requested, which resulted as follows:

Motion by Board Member Cabrera, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

### C. Military Leaves of Absence

C.1 Matthew Conway, Firefighter, requests re-employment as a Firefighter following his return from Military Leave. Copy of memorandum from the Army submitted. (DISCUSSION)

The Board entered a motion to approve the re-employment as requested and thanked the employee for his service.

Motion by Board Member Rodrigo, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

- C.2 Alain Etienne, Police Officer, requests re-employment as a Police Officer following his return from Military Leave. Copy of his DD214 indicating Honorable Discharge from the Army submitted. (DISCUSSION)

The Board entered a motion to approve the re-employment as requested and thanked the employee for his service.

Motion by Board Member Jimenez, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

- C.3 Ramon Odio, Police Officer, requests re-employment as a Police Officer following his return from Military Leave. Copy of memorandum indicating Honorable Discharge from the Army submitted. (DISCUSSION)

The Board entered a motion to approve the re-employment as requested and thanked the employee for his service.

Motion by Board Member Jimenez, seconded by Board Member Lindsey, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

- C.4 Jimmy Rodriguez, Police Officer, requests extension of Active Duty Military Leave without pay through July 30, 2021. Records reflect his original request for Military Leave was through May 20, 2021. Copy of Orders extending leave submitted. (DISCUSSION)

The Board entered a motion to approve the extension as requested and thanked the employee for his service.

Motion by Board Member Jimenez, seconded by Board Member Lindsey, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

- C.5 Katherine Triana Vasquez, Police Officer, requests extension of Active Duty Military Leave without pay through July 31, 2021. Records reflect her previous approved extension request for Military Leave was through May 10, 2021. Copy of Orders extending leave submitted. (DISCUSSION)

The Board entered a motion to approve the extension as requested and thanked the employee for her service.

Motion by Board Member Jimenez, seconded by Board Member Lindsey, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

#### **D. Disciplinary Matters**

- D.1 Copy of a letter from Chief Joseph F. Zahralban, Director, Department of Fire Rescue, notifying Luis Martinez, Firefighter, of a 24-hour forfeiture, effective March 29, 2021. (NOTIFICATION)

#### **E. General Items**

- E.1 Copy of a Motion from Adanna Ferguson, Assistant City Attorney, regarding the Chief Examiners' Investigation, concerning the Investigation hearing pursuant to Civil Service Rule 16.2- Complaint by Employee, Abuse of Power of Nelso Garcia, Superintendent of Property Maintenance in GSA, and Civil Service Rule 14.2 (h), (i), (k), and (r). (DISCUSSION)

The Executive Secretary advised the Board that a request was received by Osnat K. Rind, Attorney, on behalf of Jorge Torres, et al., to table this matter so that she may be in attendance.

Adanna Ferguson, Assistant City Attorney, indicated in all fairness, she had no objection; however, she would request that no further interviews be held until then.

Following discussion, Chair Sutton directed that this matter be carried over to the June 29, 2021 Agenda for discussion.

- E.2 Copy of a Joint Request to Continue from Zachary L. Riback, Attorney, and Adanna Ferguson,

Assistant City Attorney, concerning the Appeal hearing of Nicole Tyler, former Police Officer, as it relates to her Termination, effective February 5, 2020 (CSB#20-03D). (DISCUSSION)

Adanna Ferguson, Assistant City Attorney, Office of the City Attorney, advised the Board that both counsels request that the Appeal hearing be rescheduled no earlier than March 2022, due to legal issues surrounding Officer Tyler.

Following discussion, a motion to GRANT the joint continuance resulted as follows:

Motion by Board Member Garcia, seconded by Board Member Lindsey, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Jimenez, Cabrera, Garcia, Lindsey

**F. Reports**

F.1 Hearings Pending List as of June 15, 2021. (NOTIFICATION)

**G. Requests for Hearings**

G.1 Copy of a request for a Grievance hearing from Nerly Papier, NET Commander, pursuant Civil Service Rule 16.2 - Complaint by Employee, alleging a violation of Civil Service Rule 8.13 - Change of Status to Unclassified Service. (DISCUSSION)

Chair Sutton indicated in all fairness, although both items G.1 and G.2 is concerning the same issue and discussion will be the same, the Board will treat each matter separately.

Eugene Gibbons, Attorney, appeared before the Board on behalf of Nerly Papier, NET Commander, seeking a hearing pursuant to Civil Service Rule 16.2 – Complaint by Employee, alleging a violation of Civil Service Rule 8.13 – Change of Status to Unclassified Service and Sec. 40-94 of the City Code.

*Attorney Gibbons, explained to the Board pursuant to Rule 8.13, Commander Papier, submitted a request to voluntary return to her previous classified position in accordance with the Rule which states the following, “Any employee of the City of Miami who holds permanent Civil Service status and is appointed or assigned as a Director of a Department or to any other position in the unclassified service, shall be returned to the rank from which said employee has been promoted under personal request of the employee or when said unclassified service employment ceases, or when said employee is removed from said unclassified service employment. Seniority credits in the permanent Civil Service classification held by such employees shall accrue.....” Attorney Gibbons went on to say that Commander Papier made the request several times and the City has refused to recognize her Civil Service rights to return to her former classification. Attorney Gibbons asked the Board to make a Finding today, pursuant to Rule 16 and submit a report to the City Manager.*

Chair Sutton asked for the department’s response. ACA Ferguson replied that the City’s position is that the employee is not entitled to a hearing and objects to the requests before the Board. She went on to explain that as an unclassified employee Commander Papier is not entitled to a hearing. ACA Ferguson asked that the requests be denied.

Questions were posed by Member Cabrera, Member Jimenez, Member Lindsey and Member Garcia.

In response, Attorney Gibbons advised the Board that no discipline has been issued; therefore, his clients shall be returned to their former classification, effective May 24, 2021, the date in which the request was initially made. A copy of said request was provided to Board members.

*ACA Ferguson reiterated the City’s position, adding that Commander Papier was relieved of duty and she has no entitlement. She went on to explain that the requests were made because there is an intent to issue discipline and [therefore, she is not entitled to return due to] Section 1.15 of the Civil Service Rules, which states “Return to Former Classification is a reversion to a classification in which the employee held status prior to promotion, advancement, change in classification, or appointment to the unclassified service, due to voluntary request or other reason not involving discipline”. She continued that Commander Nerly Papier became aware of Internal Affairs recommendation and at that point submitted the request pursuant to 8.13.*

Attorney Gibbons responded that Section 1.15 is a definition and is totally inapplicable. ACA Ferguson informed the Board that Commander Papier was served with a discipline in the form of “relief of duty,” on May 18, 2021.

Reginald Clyne, Special Counsel, opined that under Rule 16.1, the Board has a right to investigate and make a report thereof to the Director of the Department and the City Manager. He added that under Rule 16.2, based upon the Board’s investigative function, the Board has a right to conduct a preliminary investigation on the “same day,” if it was noticed.

Having reviewed the request and argument of counsel, the Board considered a motion to grant the requests and confirmed the rights of the employees under Rule 8.13 and Code Sec. 40-94,

to return to their former classes as requested. The motion resulted as follows:

Motion by Board Member Cabrera, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Cabrera, Garcia,

**NOES:** Jimenez, Lindsey

G.2 Copy of a request for a Grievance hearing from Ronald L. Papier, Deputy Chief of Police, pursuant Civil Service Rule 16.2 - Complaint by Employee, alleging a violation of Civil Service Rule 8.13 - Change of Status to Unclassified Service. (DISCUSSION)

Eugene Gibbons, Attorney, appeared before the Board on behalf of Ronald L. Papier, Deputy Chief of Police, seeking a hearing pursuant to Civil Service Rule 16.2 – Complaint by Employee, alleging a violation of Civil Service Rule 8.13 – Change of Status to Unclassified Service and Sec. 40-94.

*Attorney Gibbons, explained to the Board pursuant to Rule 8.13, Deputy Chief Papier, submitted a request to voluntary return to his previous classified position in accordance with the Rule which states the following, “Any employee of the City of Miami who holds permanent Civil Service status and is appointed or assigned as a Director of a Department or to any other position in the unclassified service, shall be returned to the rank from which said employee has been promoted under personal request of the employee or when said unclassified service employment ceases, or when said employee is removed from said unclassified service employment. Seniority credits in the permanent Civil Service classification held by such employees shall accrue.....” Attorney Gibbons went on to say that Deputy Chief Papier made the request several times and the City has refused to recognize his Civil Service rights to return to his former classification. Attorney Gibbons asked the Board to make a Finding today, pursuant to Rule 16 and submit a report to the City Manager.*

Chair Sutton asked for the department’s response. ACA Ferguson replied that the City’s position is that the employee is not entitled to a hearing and objects to the requests before the Board. She went on to explain that as an unclassified employee Deputy Chief Papier is not entitled to a hearing. ACA Ferguson asked that the requests be denied.

Questions were posed by Member Cabrera, Member Jimenez, Member Lindsey and Member Garcia.

In response, Attorney Gibbons advised the Board that no discipline has been issued; therefore, his clients shall be returned to their former classification, effective May 24, 2021, the date in which the request was initially made. A copy of said request was provided to Board members.

*ACA Ferguson reiterated the City’s position, adding that Deputy Chief Papier was relieved of duty and he has no entitlement. She went on to explain that the requests were made because there is an intent to issue discipline and [therefore, he is not entitled to return due to] Section 1.15 of the Civil Service Rules, which states “Return to Former Classification is a reversion to a classification in which the employee held status prior to promotion, advancement, change in classification, or appointment to the unclassified service, due to voluntary request or other reason not involving discipline”. She continued that Deputy Chief Papier became aware of Internal Affairs recommendation and at that point submitted the request pursuant to 8.13.*

Attorney Gibbons responded that Section 1.15 is a definition and is totally inapplicable. ACA Ferguson informed the Board that Deputy Chief Papier was served with a discipline in the form of “relief of duty,” on May 18, 2021.

Reginald Clyne, Special Counsel, opined that under Rule 16.1, the Board has a right to investigate and make a report thereof to the Director of the Department and the City Manager. He added that under Rule 16.2, based upon the Board’s investigative function, the Board has a right to conduct a preliminary investigation on the “same day,” if it was noticed.

Having reviewed the request and argument of counsel, the Board considered a motion to grant the requests and confirmed the rights of the employees under Rule 8.13 and Code Sec. 40-94, to return to their former classes as requested. The motion resulted as follows:

Motion by Board Member Cabrera, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Cabrera, Garcia,

**NOES:** Jimenez, Lindsey

## **H. Today's Hearings**

H.1 Hearing of Appeal on behalf of Intiraymi Figueroa, Police Sergeant, concerning his 160-hour suspension, effective June 25, 2020.

The Board entered into the scheduled Appeal hearing on behalf of Intiraymi Figueroa, Police Sergeant. The Appellant represented himself. The Department of Police was represented by Adanna Ferguson, Assistant City Attorney (ACA), Office of the City Attorney.

Reginald Clyne, Special Counsel, Civil Service Board, provided instructions on the hearing process.

ACA Ferguson provided opening statements. Sergeant Figueroa provided opening statements. Each party provided copies of their exhibits to the other and the Board for review. Questions were posed by Member Jiménez and Member Garcia.

Prior to calling witnesses, the parties took a break to meet. Upon return from the break, ACA Ferguson advised the Board that the parties reached an amicable resolution and the settlement agreement will be drafted and sent to Sergeant Figueroa for his signature. She advised that once finalized, a copy of the executed agreement will be forwarded to the Civil Service Board Office.

#### **ANNOUNCEMENTS:**

Prior to adjournment, the Executive Secretary reminded the Board members to complete the Miami-Dade Ethics training which is being conducted in July via Zoom. She also reminded the members that their Financial Disclosure Form is due to the City Clerk's Office by July 1, 2021.

#### **ADJOURNMENT:**

Breaks were taken at: 11:35 am - 11:50 am, 12:15 pm – 12:45 pm, and 12:51 pm – 1:35pm.

There being no further business before the Board, a motion was entered to adjourn the meeting at 1:50 pm, which resulted as follows:

Motion by Board Member Lindsey, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Cabrera, Jimenez, Garcia, Lindsey

**SIGNATURE: Troy Sutton, Chairperson**

**ATTEST:** Tishria L. Mindingall, Executive Secretary