

City of Miami

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

Meeting Minutes

Tuesday, June 29, 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 10:09 am, with the Pledge of Allegiance. At commencement of the meeting, attendance was as follows:

Attendee Name	Title	Status
Troy Sutton	Chairperson	Present
Rodrigo Jimenez	Chief Examiner	Present
Rafael Cabrera	Board Member	Present
Ulysses Garcia	Board Member	Absent
Travis Lindsey	Board Member	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 Cabrera, seconded by Board Member Jimenez, that this matter be Approved, passed by the following vote:

AYES: Sutton, Jimenez, Cabrera, Lindsey

A. Approving of the Minutes

A.1 Civil Service Board - Regular Meeting - Jun 15, 2021 10:00 AM

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

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

B. Personnel Matters

B.1 Copy of a memorandum from Chief Art Acevedo, Director, Department of Police, requesting an extension of probationary period of Romeo Scott, Police Officer, for nine (9) additional months beyond August 9, 2021. (DISCUSSION)

Following appearances by Officer Scott and Qiana Sanders-Bell, Personnel Manager, City of Miami Police Department, the Board entered a motion to GRANT the extension as requested, which resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

B.2 Copy of a memorandum from Chief Art Acevedo, Director, Department of Police, requesting an extension of probationary period of Tatiana Cadet, Police Officer, for six (6) additional months beyond August 9, 2021. (DISCUSSION)

Following an appearance by Officer Cadet, the Board entered a motion to GRANT the extension as requested, which resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

B.3 Copy of a memorandum from Chief Art Acevedo, Director, Department of Police, requesting an extension of probationary period of Louis Joseph, Police Officer, for three (3) additional months beyond August 9, 2021. (DISCUSSION)

Following an appearance by Officer Joseph, the Board entered a motion to GRANT the extension as requested, which resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

B.4 Copy of a request to Angela Roberts, Director, Human Resources Department, from Luis Camacho, Sergeant-At-Arms, to return to his former classification as a Police Officer, pursuant to Section 40-94 of the City of Miami Code and Civil Service Rule 8.13- Change of Status to Unclassified Service. (NOTIFICATION)

C. Military Leaves of Absence

NONE

D. Disciplinary Matters

D.1 Copy of a letter from Arthur Noriega, V, City Manager, notifying Ronald L. Papier, Deputy Chief of Police, of his Termination, effective June 22, 2021. (NOTIFICATION)

D.2 Copy of a letter from Arthur Noriega, V, City Manager, notifying Nerly Papier, Commander of Police, of her Termination, effective June 22, 2021. (NOTIFICATION)

D.3 Copy of a letter from Ronald L. Papier, Interim Chief of Police, Department of Police, notifying Josue Herrera, Police Officer, of a 10-hour suspension, effective June 19, 2021. (NOTIFICATION)

D.4 Copy of a letter from Chief Art Acevedo, Director, Department of Police, notifying Djimy Joseph, Police Officer, of an 80-hour suspension, effective July 19, 2021. (NOTIFICATION)

D.5 Copy of a letter from Chief Art Acevedo, Director, Department of Police, notifying Anthony Corral, Police Officer, of a 40-hour suspension, effective June 28, 2021. (NOTIFICATION)

D.6 Copy of a letter from Chief Art Acevedo, Director, Department of Police, notifying Kyle Larrow, Police Officer, of a 10-hour forfeiture, effective June 24, 2021. (NOTIFICATION)

E. General Items

E.1 Copy of a Motion from Adanna Ferguson, Assistant City Attorney, regarding the Chief Examiners' Preliminary Investigation, and the Investigation Hearing pursuant to Civil Service Rule 16.1 - Abuse of Power, of Nelso Garcia, Superintendent of Property Maintenance in GSA, and Civil Service Rule 14.2 (h), (l), (k), and (r). (DISCUSSION)

Adanna Ferguson, Assistant City Attorney (ACA), addressed the Board to state her position for the three Motions presented to the Board. The motions were as follows:

1. City's motion to recuse Member Rodrigo Jimenez from the Rule 16 Investigation of Nelso Garcia.
2. City's motion to recuse Member Rodrigo Jimenez from any Rule 16 hearing granted in lieu of the Rule 16 investigation of Nelso Garcia.
3. City's motion for the Civil Service Board to disregard and not consider any findings or conclusions that Member Jimenez has developed or will develop as a result of his investigation thus far of Nelso Garcia.

She advised that the basis for said motions is that, as a member of the Executive Board of AFSCME Local 1907, Member Jimenez has a conflict of interest, that necessarily deprives the City and Nelso Garcia of the right to a fair and impartial investigation.

ACA Ferguson referred to the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Section 2.11.1 - Voting Conflicts, Members of Advisory and Quasi-judicial Boards, stating that Chief Examiner Jimenez is a Civil Service Board Member and an Officer of AFSCME, Local 1907. She also referenced Jones v. Florida Keys Community College, 984 So.2d 556 (2008) in support of her motions.

Chair Sutton asked Attorney Rind to address the City's motion.

Osnat K. Rind, Attorney on behalf of AFSCME, Local 1907, appeared before the Board and indicated she did not agree with the City's position. She went on to say that past Board members who were in the same position (also serving as Executive Board members of their union) conducted preliminary investigations and as long as the member doesn't gain financially from the outcome of the matter, he/she does not have to recuse themselves.

Following discussion and statements made by Chief Examiner Jimenez, Board Members Cabrera and Lindsey, and Chair Sutton, the Board considered a motion to DENY the requests, which resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

F. Reports

F.1 Hearings Pending List as of June 29, 2021. (NOTIFICATION)

G. Requests for Hearings

NONE

H. Today's Hearings

H.1 Grievance hearing on behalf of Nerly Papier, former 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

Prior to entering the scheduled hearing, the Board agreed to combine both items H.1 and H.2 together with the understanding of both Counsels agreeing that the facts and evidence being presented are the same for both parties.

Kevin Jones, Assistant City Attorney Supervisor, appeared before the Board to discuss fundamental issues prior to the hearing.

ACA Jones filed a motion to recuse three (3) board members who previously voted in favor of the request and confirmed the rights of the employees under Rule 8.13- Change of Status to Unclassified Service and City of Miami Code Sec. 40-94, to return to their former classes, which took place at the Civil Service Board meeting of June 13, 2021.

Eugene Gibbons, Attorney, on behalf of Nerly and Ronald Papier, reminded the Board at the last meeting, the Board conducted a preliminary investigation. He went on to say what the Board had before them was the Board's exhibit which was a request made by the Papiers and Attorney Jones response to the request.

Member Cabrera added that he remembered the City being asked at least twice what their position was, and the City said they didn't believe the Papiers was entitled to roll back pursuant to the Civil Service Rule 1.15 - Return to Former Classification.

Following discussion, the Board made a motion to DENY the request, which resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

Prior to entering the hearing, ACA Ferguson stated for the record, the City's objection to the matter moving forward. She went on to say, it was only after the Papier's were made aware of the recommendation, they submitted a request pursuant to Civil Service Rule 8.13 - Change of Status to Unclassified Service- Change of Status to Unclassified Service; however, in accordance with Rule 1.15 - Return to Former Classification, they are not entitled.

Chair Sutton responded that the objection was noted for the record, and without objection from the Board, called for the Grievance hearing on behalf of Nerly Papier, NET Commander (former) and Ronald Papier, Deputy Chief of Police (former)

Attorney Eugene Gibbons appeared on behalf of Nerly Papier and Ronald Papier. Adanna Ferguson, Assistant City Attorney, appeared on behalf of the City of Miami Police Department.

The attorneys provided opening statements. Witnesses testifying at the request of the Grievant and Department were sworn in individually and appeared in the following order:

1. Nerly Papier, Grievant.
2. Ronald Papier, Grievant.

Both parties rested and presented closing statements. Upon review of exhibits entered, testimony provided and argument of counsel, the Board entered into deliberations.

Chair Sutton asked if there were questions or discussion by the Board.

Member Jimenez requested a copy of the unsigned reprimand that was presented to the Grievants, notifying them of the recommended termination. After a break, a copy was provided for his perusal.

Chair Sutton stated that the Rule is intended to protect those employees who climb up through the classified service and change status to a position outside of that, whether it be an executive position or unclassified.

Member Cabrera opined that the Grievants had rollback rights pursuant to Rule 8.13 - Change of Status to Unclassified Service. He went on to say that he was taken aback a little because these issues are usually handled within the department. He further stated that there is a reason why such rules exist, and it's unfortunate that this matter is before the Civil Service Board.

Following discussion, the Board entered a motion to GRANT the grievance alleging violation of Civil Service Board Rule 8.13 - Change of Status to Unclassified Service, and in accordance with Rule 16.2, recommend that the City Manager allow the Grievants to return to their former classes as requested.

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

H.2 Grievance hearing on behalf of Ronald L. Papier, former 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.

Please refer to Item H.1

ADJOURNMENT:

Breaks were taken at: 11:48am – 12:00pm; 12:05pm – 1:04pm (Lunch) and 2:35pm – 2:43pm.

There being no further business before the Board, a motion was entered to adjourn the meeting at 4:06 pm, which resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Lindsey

SIGNATURE: Troy Sutton, Board Chairperson

ATTEST: Tishria L. Mindingall, Executive Secretary