

City of Miami

3500 Pan American Drive
Miami, FL 33133
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Meeting Minutes

Tuesday, August 24, 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 10:10 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	Present
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, Garcia, Lindsey

A. Approving of the Minutes

A.1 Civil Service Board - Regular Meeting - August 10, 2021

A motion was entered to approve the Minutes as presented, 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, Garcia, Lindsey

B. Personnel Matters

B.1 Copy of a memorandum from Angela Roberts, Director, Department of Human Resources, informing Gisela Rodriguez, Assistant to the Director, Department of Risk Management, to return to her former classification of Administrative Assistant II, effective August 19, 2021. (NOTIFICATION)

B.2 Copy of a memorandum from Angela Roberts, Director, Department of Human Resources, informing Harold Geisse, Executive Officer to the Police Chief, Department of Police to return to his former classification of Police Sergeant, effective August 22, 2021. (NOTIFICATION)

C. Military Leaves of Absence

C.1 Matthew Conway, Firefighter, requests Military Leave without pay from August 14, 2021 through August 21, 2021. Copy of Orders submitted. (DISCUSSION)

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 Arthur Noriega, V., City Manager, notifying Ronald Rey Quintanilla, Police Property Specialist I, of his Termination, effective August 6, 2021 and a request to Appeal from Ronald Ray Quintanilla. (NOTIFICATION)

E. General Items

E.1 Copy of a Judgment from Art Noriega, V, City Manager, concerning the Appeal hearing on behalf of Travis Lindsey, Police Sergeant, in reference to his 40-hour suspension, effective September 1, 2020. (NOTIFICATION) Hearing will be closed and removed from the Board's docket.

E.2 Status update and request by Adanna Ferguson, Assistant City Attorney, regarding the Appeal hearing on behalf of Intraymi Figueroa, Police Sergeant, concerning his 160-hour suspension, effective June 25, 2020. (DISCUSSION)

Adanna Ferguson, Assistant City Attorney, Office of the City Attorney, reminded the Board that when the matter was previously scheduled, both parties requested a Continuance pending a settlement. She went on to explain that since then, Sergeant Figueroa decided not to settle; therefore, the appeal hearing will have to be rescheduled.

Following discussion, and without objection, Chair Sutton directed that the hearing be rescheduled.

F. Reports

F.1 Hearings Pending List as of August 24, 2021. (NOTIFICATION)

Chair Sutton asked for the update concerning the Chief Examiner's Preliminary Investigation concerning the hearing on behalf of Joel Fernandez, Ocean Rescue Lifeguard. Chair Sutton went on to say at the last Civil Service Board meeting, the Board asked that a status report be provided at today's meeting; however, he did not receive a copy in the packet. Chair Sutton emphasized at this point he thinks the Board should proceed with the hearing.

Chief Examiner Jimenez responded that he did not prepare a report; however, he agrees with the recommendation that the Board move forward with the hearing, as new information had been presented to him.

ACA Ferguson requested that Chief Examiner Jimenez recuse himself from the hearing that is scheduled for September 21, 2021. Chief Examiner declined.

Special Counsel Clyne reminded all that as a Chief Examiner, he may be asked to investigate certain matters. He went on to say that the Board will consider the evidence presented at the time of the hearing.

Member Cabrera added that as a Board member, he will never recuse himself. He went on to say whether you are an appointed or an elected member of the Board we work and talk to individuals.

Following discussion, the Board considered a motion to SUSPEND any further investigation concerning this matter, 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

Chair Sutton directed Civil Service Staff to subpoena Joel Fernandez, Ocean Rescue Lifeguard, Marcos Fernandez, Senior Ocean Rescue Lifeguard, and Jeanna Di Raimondo, Human Resources Generalist, to attend the hearing.

Following the vote, Chair Sutton asked for the status of the preliminary Investigation on behalf of Jose Torres et al., concerning the alleged abuse of power against Nelso Garcia, Superintendent of GSA.

Chief Examiner Jimenez advised the Board that the investigation is ongoing.

Following discussion, the Board considered a motion to SUSPEND any further investigation relative to Jose Torres et al., and proceed with rescheduling the Hearing, 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, Cabrera, Garcia

NOES: Lindsey, Jimenez

G. Requests for Hearings

H. Today's Hearings

- H.1 Hearing of Appeal on behalf of Suzann Nicholson, former Building Services Assistant IV, concerning her Termination, effective May 12, 2021.

NOTE: At the meeting of August 10, 2021, the Board agreed to combine the Appeal hearing and the Whistleblower hearing into one, and to hold it at today's meeting.

The Board entered into the scheduled Appeal and Whistleblower hearing on behalf of Suzann Mudahy-Nicholson, Building Services Assistant IV (former).

The Grievant was represented by Matthew Baldwin, Attorney, Vargas, Gonzalez, Delombard, Attorneys at Law. The Department was represented by Kevin Jones, Supervisor Assistant City Attorney, Office of the City Attorney.

Chair Sutton asked each side for the number of witnesses they would call, in an effort to determine how much time would be needed for the chambers today. The attorneys responded and further clarified issues related to the hearing. Following discussion from both parties, the Board proceeded with the hearing.

Opening statements by Attorney Baldwin and SACA Jones were deferred. Exhibits were introduced and entered into evidence.

Witnesses were sworn in individually and appeared in the following order:

1. Victoria Mendez, City Attorney, City of Miami Office of the City Attorney.
2. Art Noriega, City Manager, City Manager's Office. Questions were posed by Member Cabrera.
3. Suzann Mudahy-Nicholson, Building Services Assistant IV (former), Building Department, testified on her own behalf. Questions were posed by Members Cabrera and Sutton.

Grievant alleged to have been "pushed" by City of Miami Commissioner Alex Diaz de la Portilla. Under direct examination by SACA Jones, Grievant acknowledged having lied about the location of the incident, specifically inside or outside of the club.

Department rested its case and Grievant waived rebuttal.

Chair Sutton asked if any Member wished to say anything. Member Cabrera indicated that he was appalled at what was presented at today's hearing, as it concerned the lies and misrepresentations from the Appellant/Grievant. He went on to say he was ready to make a motion.

The Board entered into deliberations. Chair Sutton asked the Acting Executive Secretary to read the charging document into the record, to consider the Appeal first.

Following discussion, the Board considered motions on the charges as follows:

Sec. 14.2. Grounds for Dismissal, Suspension and Demotion. The following are declared to constitute a breach of duty and to be grounds for dismissal or suspension from the classified service or grounds for demotion, though charges may be based upon causes other than those enumerated; viz, that any employee who has been guilty of conduct unbecoming any employee of the City of Miami, who:

1. (d) Has willfully violated any of the provisions of the Civil Service law or rules of the Board;

A motion of GUILTY was made and 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

2. (e) Has violated any lawful and reasonable official regulation or order, or failed to obey any lawful or reasonable direction made and given by his/her superior, where such violation or failure to obey amounts to:

- (1) an act of insubordination; or
- (2) a serious breach of proper discipline

A motion of GUILTY was made and 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

3. (h) Has been guilty of actions which amount to insubordination or disgraceful conduct, whether committed on duty or off;

A motion of GUILTY was made and resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Garcia, Lindsey

4. (i) Has been wantonly offensive in conduct or language toward the public or City officers or employees

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

AYES: Sutton, Jimenez, Cabrera, Garcia, Lindsey

PENALTY DISCUSSION:

Having ruled on the charges, the Board entered into the Penalty phase of the hearing. A motion to recommend that the City Manager SUSTAIN the

Termination was considered by the Board and 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, Garcia, Lindsey

H.2 Whistleblower hearing pursuant to Florida Statue 112.3187 on behalf of Suzann Nicholson, former Building Services Assistant IV.

Refer to Item H.1 for details.

Chair Sutton asked if any Member would like to make a motion concerning the Whistleblower hearing.

Following discussion, the Board entered a motion to report to the City Manager that the Grievant FAILED to meet her burden under the Whistleblower Statute and exonerate everyone involved.

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

AYES: Sutton, Jimenez, Cabrera, Garcia, Lindsey

ADJOURNMENT:

Break: 12:45 PM – 1:10 PM

Lunch: 1:40 PM – 2:45 PM

There being no further business before the Board, a motion was entered to adjourn the meeting at 3:20 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, Garcia, Lindsey

SIGNATURE: Troy Sutton, Chairperson

ATTEST: Tishria L. Mindingall, Executive Secretary