

City of Miami

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

Meeting Minutes

Tuesday, November 03, 2020

10:00 AM

Commission Chambers

Civil Service Board

Troy Sutton, Chairperson Rafael Cabrera, Board Member Rodrigo Jimenez, Board Member

Pledge of Allegiance

The meeting was called to order at 10:06 am, with the Pledge of Allegiance. At commencement of the meeting, attendance was as follows:

Attendee Name	Title	Status
Troy Sutton	Chairperson	Present
Rafael Cabrera	Board Member	Present
Rodrigo Jimenez	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, Cabrera, Jimenez

A. Approving of the Minutes

A.1 Civil Service Board - Regular Meeting - October 20, 2020 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, Cabrera, Jimenez

B. Personnel Matters

B.1 Copy of a memorandum from Chief Jorge R. Colina, Director, Department of Police, requesting an extension of probationary period of Ashley Arauz, Police Officer, nine (9) additional months beyond December 15, 2020. (DISCUSSION)

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

AYES: Sutton, Cabrera, Jimenez

Military Leaves of Absence

C.1 Alejandro Cuervo, Firefighter, requests Active Duty Military Leave without pay from October 1, 2020 through December 31, 2020. Copy of Orders submitted. (DISCUSSION)

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

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

AYES: Sutton, Cabrera, Jimenez

D. Disciplinary Matters

D.1 Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Djimy Joseph, Police Officer, of a 40-hour suspension, effective November 8, 2020. (NOTIFICATION)

D.2 Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Shane Tardieu, Police Officer, of a 10-hour suspension, effective October 24, 2020. (NOTIFICATION)

E. General Items

E.1 Copy of a Settlement Agreement between the City of Miami and Moriath Melendez, Public Service Aide, concerning her Appeal hearing, relative to an 8-hour suspension, effective June 15, 2020 (CSB#20-05D). (NOTIFICATION)

Hearing scheduled for today.

Hearing of Appeal will be closed and removed from the Board's docket.

E.2 Copy of a Request to Continue from William Amlong, Attorney, The Amlong Firm, concerning the Appeal hearing of Edwin Gomez, Police Sergeant, relative to a 160-hour suspension, effective February 24, 2020. (DISCUSSION)

Hearing is scheduled for November 17, 2020.

The Executive Secretary advised that a Request for Continuance had been received from William Amlong, Attorney. Adanna Ferguson, Assistant City Attorney, expressed no objection to the request. Following discussion, a motion to grant the continuance 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, Cabrera, Jimenez

F. Reports

F.1 Hearings Pending List as of November 3, 2020. (NOTIFICATION)

G. Requests for Hearings

H. Today's Hearings

H.1 Hearing of Appeal on behalf of Moriath Melendez, Public Service Aide, concerning her 8-hour suspension, effective June 15, 2020.

H.2 Hearing of Appeal on behalf of Travis J. Lindsey, Police Sergeant, concerning his 40-hour suspension, effective September 1, 2020.

The Board entered into the scheduled Appeal hearing on behalf of Travis J. Lindsey, Police Sergeant.

Adanna Ferguson, Assistant City Attorney, represented the Miami Police Department.

Travis J. Lindsey, Police Sergeant, represented himself.

Opening statements were made by Attorney Ferguson and Sergeant Lindsey.

All witnesses were sworn in individually.

Witnesses testifying at the request of the Department appeared in the following order:

1. Jose Fernandez, Police Major, City of Miami, Miami Police Department.
2. Joshua De La Milera, Police Lieutenant, City of Miami, Miami Police Department. Questions were posed by Members Cabrera and Jimenez
3. Armando Aguilar, Assistant Chief, City of Miami, Miami Police Department

The Department rested its case.

The Appellant called no witnesses to testify on his behalf. The Appellant rested his case; however, Travis J. Lindsey, Police Sergeant, testified at the request of the Board.

Questions were posed by Chair Sutton, Member Cabrera, Member Jimenez. ACA Ferguson also posed questions to Appellant.

Closing statements were provided by both the Department and Appellant.

Having reviewed and considered testimony, exhibits and argument of counsel, the Board considered motions for each charge which resulted as follows:

Department Order 1, Chapter 11.6.13.6 – Tact and Consideration. A motion to find Appellant GUILTY was considered and resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.13.11 – Courtesy Toward Others, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.17.8 – Insubordination.

Under discussion, Member Cabrera stated that the same common courtesy given to subordinates should be given to superior Officers as well.

Following discussion, the motion on the floor resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.17.9 – Neglect of Inattention to Duty, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

A motion made by Member Jimenez to find the Appellant NOT GUILTY of Department Order 1, Chapter 11.6.17.17 – Making a False Statement. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.17.17 – Making a False Statement, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.17.22 – Gossiping, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

A motion made by Member Jimenez to find the Appellant NOT GUILTY of Department Order 1, Chapter 11.6.17.36 – Ignorance of Rules and Regulations. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.17.36 – Ignorance of Rules and Regulations, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

A motion was made by Member Jimenez, to find the Appellant NOT GUILTY of Department Order 1, Chapter 11.6.28.3 – Members to Conform. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.28.3 – Members to Conform, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

A motion was made by Member Jimenez, to find the Appellant NOT GUILTY of Department Order 1, Chapter 11.6.32.2 – Obedience to Superior Orders. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.32.2 – Obedience to Superior Orders, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

A motion was made by Member Jimenez, to find the Appellant NOT GUILTY of Department Order 1, Chapter 11.6.32.5 – Derogatory Remarks. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.32.5 – Derogatory Remarks, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

A motion was made by Member Jimenez, to find the Appellant NOT GUILTY of Department Order 1, Chapter 11.6.32.6 – Through Chain of Command. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.32.6 – Through Chain of Command, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

A motion was made by Member Jimenez, to find the Appellant NOT GUILTY of Department Order 1, Chapter 11.6.41.3. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.41.3 – Filing False Report, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Department Order 1, Chapter 11.6.53.1 – Members to be Truthful, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Civil Service Rules & Regulations 14.2(d) – Has Willfully Violated Provisions, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Civil Service Rules & Regulations 14.2(e)(1) – Has Violated Any Official Order, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Civil Service Rules & Regulations 14.2(e)(2) – Serious Breach of Discipline, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Civil Service Rules & Regulations 14.2(e)(3) – Loss or Injury to the City, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY Civil Service Rules & Regulations 14.2(k) – Is Incompetent, Negligent, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

The Board entered a motion to find the Appellant GUILTY of Civil Service Rules & Regulations 14.2(r) – Is Antagonistic Toward Superiors, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

PENALTY PHASE:

Having found the Appellant GUILTY of all the charges, the Board entered into discussion regarding a penalty recommendation to make to the City Manager.

At the request of the Department, the following witness appeared in the following order:

1. Antonio Diaz, Police Major, City of Miami, Miami Police Department

The department rested.

Following discussion, a motion was made by Member Jimenez, recommending a 20-hour suspension. The motion DIED FOR LACK OF A SECOND.

The Board entered a motion to UPHOLD the department's 40-hour suspension, which resulted as follows:

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

AYES: Sutton, Cabrera

NAYS: Jimenez

ADJOURNMENT:

A break was taken from 12:00 pm – 12:05 pm.

There being no further business before the Board, a motion was entered to adjourn the meeting at 1:23 pm, which 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, Cabrera, Jimenez

SIGNATURE: Troy Sutton, Chairperson

ATTEST: Tishria L. Mindingall, Executive Secretary