

Meeting Minutes

Thursday, December 16, 2021

9:30 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 9:52 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

A. General Items

- A.1 Copy of Findings of Fact concerning the Appeal Hearing on behalf of Intraymi Figueroa, Police Sergeant, concerning 160-hour suspension, effective June 25, 2020. (DISCUSSION)

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

B. Military Leave of Absence

- B.1 Johnny Fonseca, Police Officer, requests extension of Active Duty Military Leave without pay through December 12, 2022. The original request was through July 18, 2022. Copy of Orders extending leave submitted. (DISCUSSION)

RESULT: PASSED [UNANIMOUS]

MOVER: Rodrigo Jimenez, Chief Examiner

SECONDER: Travis Lindsey, Board Member

AYES: Sutton, Jimenez, Cabrera, Garcia, Lindsey

C. Reports

- C.1 Civil Service Board 2022 Meetings Calendar. (NOTIFICATION)

D. Today's Hearings

- D.1 Investigation Hearing on behalf of Jorge Torres, et al., GSA Employees, pursuant to Civil Service Rule 16.1 - Investigation by the Board, (Abuse of Power) of Nelso Garcia, Superintendent of Property Maintenance in GSA, alleging violation of Civil Service Rules 14.2 (h), (I), (k), and (r).

NOTE: The Investigation was conducted at the request of the following General Services Administration (GSA) employees: Jorge Torres, Ryan Martinez, Domingo Gimenez, Luis Albo, Norman Gunder, Antonio Gonzalez, Leinz Polycap, Robert Cardenas-Perez and Omar Fraga (see Civil Service Board May 18, 2021 Minutes).

The hearing began November 16, 2021, continued November 30, 2021 and concluded December 16, 2021.

The Board entered into the scheduled Investigation hearing on behalf of several GSA Employees, pursuant to Civil Service Rule 16.1 - Investigation by the Board. Nelso Garcia was alleged to have violated the following Civil Service Rules & Regulations (in brief):

1. Violation of Rule 16.1 - Actions contrary to the Spirit and Intent of the Rules & Regulations.
2. Violation of Rule 14.2(h) - Insubordination or Disgraceful Conduct.
3. Violation of Rule 14.2 (i) - Wantonly Offensive in Conduct or Language Toward the Public or City Officers or Employees
4. Violation of Rule 14.2(k) - Incompetent, Negligent or Inefficient in the performance of the duties of the position held.
5. Violation of Rule 14.2(r) - Antagonistic Toward Superiors and Fellow Employees.

The Grievants were represented by Osnat K. Rind, Attorney, Phillips, Richard, & Rind, P.A. The Department was represented by Adanna Ferguson, Assistant City Attorney, Office of the City Attorney. Opening statements were provided by both sides.

Witnesses appearing at the request of the Grievants were:

1. Sean Moy, President, AFSCME Labor Union, Local 1907. Questions were posed by Members Jimenez and Sutton.
2. Javier Olivera, HVACR Supervisor, Department of GSA. Questions were posed by Members Jimenez, Garcia, Lindsey, Cabrera and Sutton.
3. Leonel Wallen, Welder, Department of GSA. Questions were posed by Members Garcia, Jimenez and Cabrera.
4. Luis DelaPortilla, Acquisitions Specialist Supervisor (former). Questions were posed by Members Garcia, Cabrera and Sutton.
5. Darquaivious Dixon, Laborer I (former). Questions were posed by Members Cabrera and Jimenez.
1. Jorge Delgado, Property Maintenance Supervisor, Department of GSA. Questions were posed by Member Jimenez.
2. Ryan Martinez, Mason, Department of GSA. Questions were posed by Member Jimenez.
3. Luis Albo, Painter, Department of GSA.
4. Wilson Vallecillo, Facility Maintenance Technician, Department of GSA. Questions were posed by Member Cabrera.
5. Randolph Joseph, Maintenance Manager, Department of GSA.
6. Lienz Polycap, Maintenance Mechanic Helper, Department of GSA. Questions were posed by Members Cabrera, Jimenez, Garcia and Sutton.
7. Jorge Torres, Mason, Department of GSA. Questions were posed by Members Jimenez, Cabrera and Sutton.

Grievants rested.

Witnesses appearing at the request of the Department were:

1. *Ricardo Falero, former Director of GSA, (appeared remotely). Questions were posed by Members Cabrera, Jimenez, Sutton.*
2. *Nelso Garcia, Superintendent of Property Maintenance, Department of GSA. Questions were posed by Members Cabrera, Jimenez, Sutton.*
3. *Jennifer Ramirez, Director, Department of GSA. Questions were posed by Members Lindsey and Cabrera.*

Department rested.

Rebuttal Witness (Grievant)

1. *Mary Lugo, Advisor to AFSCME, Local 1907*

Closing statements were provided by both sides. Following review of exhibits entered by both the Grievant and the Department, testimony of witnesses and argument of counsel, the Board entered into deliberations.

Comments were made by Members Garcia, Cabrera, Lindsey and Sutton. Following discussion, the Board considered a motion to vote on all allegations at once, which resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Garcia, Lindsey

Having found that Superintendent Garcia violated Rules 16.1, 14.2(i), 14.2(k), and 14.2(r), the Board entered into discussion regarding any recommendations to the city manager. The Board heard again from Director Ramirez, as well as the Executive Director and Special Counsel.

Following discussion, the Board entered a motion to recommend that Superintendent Garcia be immediately removed from his current position, to resolve the employees' complaint. Further, it is recommended that Superintendent Garcia be demoted and/or transferred from the Property Maintenance Division of GSA, that he not be allowed to return until he meets the current position requirements, and that he take English lessons for his own personal development.

Following discussion, the motion resulted as follows:

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

AYES: Sutton, Jimenez, Cabrera, Garcia, Lindsey

ADJOURNMENT:

Breaks were taken at: 9:57am – 10:01am; 11:34am – 12:00pm; 12:26am – 1:13pm (Lunch); 2:19pm – 2:34pm; 4:13pm – 4:22pm; 6:27pm – 6:38pm.

There being no further business, Chair Sutton called for a motion to adjourn the meeting, 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

The meeting adjourned at 9:47 pm.

SIGNATURE: Troy Sutton, Chairperson

ATTEST: Tishria L. Mindingall, Executive Secretary