

City of Miami
3500 Pan American Drive
Miami, FL 33133

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Meeting Minutes

Tuesday, July 09, 2019

10:00 AM

Commission Chambers

Civil Service Board

Troy Sutton, Chairperson

Michael Dames, Chief Examiner

Rafael Cabrera, Board Member

Ulysses Garcia, Board Member

Wilbur Jackson, Jr., Board Member

Pledge of Allegiance

The meeting was called to order at 10:07 am, with the Pledge of Allegiance. At commencement of the meeting, attendance was as follows:

Attendee Name	Title	Status
Troy Sutton	Chairperson	Present
Michael Dames	Chief Examiner	Present
Rafael Cabrera	Board Member	Present
Ulysses Garcia	Board Member	Present
Wilbur M. Jackson, Jr.	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 Jackson, Jr., seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

A. Approving of the Minutes

A.1 Civil Service Board - Regular Meeting - Jun 11, 2019 10:00 AM

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

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

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

B.1 Copy of a memorandum from Michael Sarasti, Chief Information Officer/Department Director, Department of Innovation and Technology, requesting an extension of probationary period of Boris Hernandez-Malmierca, Strategic Planning and Performance Analyst, for six (6) additional months beyond June 26, 2019. (DISCUSSION)

Following an appearance by the employee, who responded to questions by the Board, a motion to GRANT the request of the department was considered and resulted as follows:

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

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

C. Military Leaves of Absence

- C.1 Angelo Viniestra, Firefighter, requests Active Duty Military Leave without pay from June 1, 2019 through September 29, 2019. 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 Jackson, Jr., seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

- C.2 Jim Cadestin, Police Officer, requests extension of Active Duty Military Leave without pay from July 28, 2019 through August 3, 2019. Records reflect his previous approved request for Military Leave was from April 27, 2019 through July 27, 2019. Copy of Orders submitted. (DISCUSSION)

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

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

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

- C.3 Anthony Montes, Police Officer, requests Active Duty Military Leave without pay from June 21, 2019 through July 5, 2019. Copy of Orders submitted. (NOTIFICATION)

D. Disciplinary Matters

- D.1 Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying George Talania, Crime Scene Investigator I, of a 10-hour forfeiture, effective June 12, 2019. (NOTIFICATION)

E. General Items

- E.1 Copy of a Settlement Agreement between the City of Miami and Altarr Williams, Police Lieutenant, concerning his Appeal hearing, relative to a 20-hour suspension, effective March 27, 2019 (CSB #19-04D). (NOTIFICATION)

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

- E.2 Copy of a Settlement Agreement between the City of Miami and David Pettigrew, Automotive Mechanic, concerning his Appeal hearing, relative to a 14-day suspension, effective August 14, 2018 (CSB #18-13D). (NOTIFICATION)

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

- E.3 Copy of a Judgment from Emilio T. Gonzalez, City Manager, concerning the Investigation hearing on behalf of Steven Miro, former District Liaison, relative to his termination, effective June 14, 2018. (NOTIFICATION)

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

- E.4 Findings of Fact concerning the Hearing of Appeal on behalf of Sandy Dorsainvil, former Cultural Arts Center Manager, concerning her Termination, effective April 4, 2016. (DISCUSSION)

The Executive Secretary advised the Board, that both Attorneys agree with the proposed Findings.

Charles C. Mays, Attorney, on behalf of Sandy Dorsainvil, advised the Board that the parties in this matter have worked together on the Findings to precisely and concisely capture what occurred during the hearing. He went on to ask the Board to adopt the Findings and Recommendations as presented.

Following discussion, the Board entered a motion to APPROVE the Findings and Recommendations as presented, which resulted as follows:

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

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

E.5 Copy of a Joint Request to Continue from Adanna Ferguson, Assistant City Attorney, and Teri Guttman-Valdes, Attorney, concerning the Grievance hearing of Edwin Gomez, et. al., Police Sergeants, pursuant to Civil Service Rule 16.1 - Investigation by the Board, and 16.2- Complaint by Employee, alleging a violation of Civil Service Rules 6.3- Contents of Examination, 6.5- Method of Rating, and 6.7- Seniority, concerning the examination process for the 2017 Police Lieutenant's exam. (DISCUSSION)

Adanna Ferguson, Assistant City Attorney, advised the Board that both parties have agreed to request a Joint continuance in this matter.

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

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

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

E.6 Copy of a Request to Continue from Osnat K. Rind, Attorney, on behalf of Richard Robinson, Communication Repair Worker, concerning the Appeal Hearing, relative to his 40-hour suspension, effective October 24, 2018. (DISCUSSION) Hearing is scheduled for today.

Libby Herrera-Navarrete, Attorney, Phillips, Richard, & Rind, P.A., appeared on behalf of Richard Robinson, Communication Repair Worker, requesting a Continuance in this matter. Attorney Herrera Navarrete advised the Board that she is requesting a continuance as a result of a request for documents that were not produced within sufficient time to be prepared for the case set for today.

ACA Ferguson expressed no objection to the employee's request.

Following discussion, the Board considered a motion to GRANT the continuance as requested, which resulted as follows:

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

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

F. Reports

F.1 Hearings Pending List as of July 9, 2019. (NOTIFICATION)

G. Requests for Hearings

H. Today's Hearings

H.1 Grievance hearing on behalf of Edwin Gomez, et. al., Sergeants, pursuant to Civil Service Rule 16.1 -Investigation by the Board, and 16.2- Complaint by Employee, alleging a violation of Civil Service Rules 6.3- Contents of Examination, 6.5- Method of Rating, and 6.7- Seniority, concerning the examination process for the 2017 Police Lieutenant's exam.

Hearing continued at today's meeting.

H.2 Grievance hearing on behalf of Frances Walters, Sanitation Inspector II, pursuant Civil Service Rule 16.2, concerning an alleged violation of Civil Service Rules 5.4 - Disqualification and 6.3 - Contents of Examination, as it relates to her ineligibility determination in the April 2018 recruitment for Sanitation Supervisor.

The Executive Secretary advised the Board that the office had received a Notice of Appearance from Nnamdi Jackson, Attorney, on behalf of Frances Walters, Sanitation Inspector II. She advised that the office received notification that neither Attorney Jackson nor his client is available to appear in person for today's hearing.

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

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

AYES: Sutton, Dames, Cabrera, Garcia, Jackson, Jr.

H.3 Hearing of Appeal on behalf of Richard Robinson, Communication Repair Worker, concerning his 40-hour suspension, effective October 24, 2018.

Hearing continued at today's meeting.

H.4 Hearing of Appeal on behalf of Eduardo Barreto, Electrical Inspector, concerning his 3-day suspension, effective May 9, 2018.

The Board entered into the scheduled Appeal hearing on behalf of Eduardo Barreto, Electrical Inspector, concerning a 3-day suspension, effective May 9, 2018. The charging document was placed in the official record.

The Department of Building was represented by Adanna Ferguson, Assistant City Attorney, Office of the City Attorney.

The Appellant was represented by Libby Herrera-Navarrete, of Phillips, Richard and Rind, P.A.

The Rule of Witnesses was invoked, and witnesses were advised to step out of the chambers and to not discuss their testimony with anyone.

Assistant City Attorney Ferguson provided opening statements. Opening statements were deferred by Appellant. Witnesses testifying at the request of the Department appeared in the following order:

1. Hector Detre, Business Owner, H. Electric. Questions were posed by Members Jackson, Dames, and Cabrera.
2. Jose Camero, Director, City of Miami, Department of Building. Questions were posed by Members Jackson, Sutton, and Dames.
3. Richard Way, Chief Electrical Inspector, City of Miami, Department of Building. Questions were posed by Members Dames and Jackson.

The Department rested.

Attorney Herrera-Navarrete, provided opening statements. The Appellant testified on his own behalf, with the use of a translator Jose Vega, President, Legal Translations. Questions were posed by Members Jackson, Sutton, and Garcia.

The Employee rested.

Member Cabrera was excused at this time, due to a prearranged engagement.

Both the Appellant and the Department provided closing arguments, then the Board entered into deliberations.

Chair Sutton asked if any Member wished to say anything. Hearing none, he opined that he felt that the Department didn't meet its' burden because there were many discrepancies in the charging document such as dates, addresses, etc. However, he made note the Appellant's behavior in the past is not acceptable. He strongly encouraged the Appellant, moving forward to serve the public as we should.

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

Civil Service Rule 14.2 (h), Insubordination or Disgraceful Conduct. A motion to find Appellant NOT GUILTY was considered and resulted as follows:

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

AYES: Sutton, Dames, Garcia, Jackson, Jr.

Civil Service Rule 14.2 (i), Wantonly Offensive in Conduct or Language. A motion to find Appellant NOT GUILTY was considered and resulted as follows:

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

AYES: Sutton, Dames,

NO: Jackson, Jr., Garcia

Having had a tied vote, following discussion by Member Jackson and Garcia, a motion to find Appellant NOT GUILTY was considered and resulted as follows:

Civil Service Rule 14.2 (i), Wantonly Offensive in Conduct or Language.

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

AYES: Sutton, Garcia, Jackson, Jr.

NO: Dames

ADJOURNMENT:

Breaks were taken at: 11:27 AM -11:45 AM; Lunch: 1:00 PM -2:03 PM

There being no further business before the Board, a motion was entered to adjourn the meeting at 5:57 pm, which resulted as follows:

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

AYES: Sutton, Jackson, Garcia

NAYS: Dames

SIGNATURE: _____

Troy Sutton, Board Chairperson

ATTEST: _____

Tishria L. Mindingall, Executive Secretary