

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

**Meeting Minutes**

Tuesday, October 29, 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 10:09 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	Absent
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 Cabrera, that this matter be Approved, passed by the following vote:

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

**A. Approving of the Minutes**

A.1 Civil Service Board - Regular Meeting - Oct 15, 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 Cabrera, that this matter be Approved, passed by the following vote:

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

**B. Personnel Matters**

**C. Military Leaves of Absence**

C.1 Odney Belfort, Police Sergeant, requests Military Leave without pay from November 4, 2019 through January 2, 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 Jackson, Jr., seconded by Board Member Garcia, that this matter be that this matter be Approved, passed by the following vote:**

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

C.2 Juan C. Ortega, Police Officer, requests extension of Active Duty, Military Leave without pay effective October 1, 2019 for a period of 179 days. Records reflect his previous approved extension request for Military Leave was from July 27, 2019 through September 30, 2019. (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 that this matter be Approved, passed by the following**

**vote:**

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

C.3 Raweewan Andrews, GIS Data Specialist, requests Military Leave without pay from September 12, 2019 through September 23, 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, Cabrera, Garcia, Jackson, Jr.

C.4 Roberto Luna, Firefighter, requests re-employment as a Firefighter following his return from Military Leave. Copy of memorandum submitted. (DISCUSSION)

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

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

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

C.5 Angelo Viniestra, Firefighter, requests re-employment as a Firefighter following his return from Military Leave. Copy of memorandum submitted. (DISCUSSION)

The Board entered a motion to approve the re-employment as requested, and thanked the employee for his service.

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

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

**D. Disciplinary Matters**

D.1 Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Jermaine Douglas, Police Lieutenant, of a 20-hour suspension, effective October 11, 2019 and a copy of a request to appeal from Mr. Douglas. A hearing will be scheduled in accordance with the Civil Service Board Rules and Regulations. (NOTIFICATION)

D.2 Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Alexander Hernandez, Police Officer, of a 40-hour suspension, effective October 16, 2019. (NOTIFICATION)

**E. General Items**

E.1 Copy of a Settlement Agreement between the City of Miami and Richard Robinson, Communication Repair Worker, concerning his Appeal hearing, relative to a 40-hour suspension, effective October 24, 2018 (CSB#18-18D). (NOTIFICATION) Hearing of Appeal will be closed and removed from the Board's docket.

The Executive Secretary advised that the signed Settlement Agreement had been received, and that this matter would be removed from the Board's docket.

**F. Reports**

F.1 Hearings Pending List as of October 29, 2019. (NOTIFICATION)

The Executive Secretary advised the Board that due to a Special City Commission meeting scheduled for November 12, 2019, the Civil Service Board meeting was canceled. Chair Sutton instructed the Executive Secretary to reschedule hearings set for November 12, 2019. The regular Civil Service Board meeting will reconvene November 26, 2019.

**G. Requests for Hearings**

**H. Today's Hearings**

H.1 Hearing on behalf of Edwin Gomez, et. al. Police Sergeants, relative to their Grievance hearing, concerning the examination process for Police Lieutenant, pursuant Civil Service Rules 16.1 - Investigation by the Board and 16.2 - Complaint by Employee, alleging violation of Civil Service Rules 6.3 - Contents of Examination, 6.5 - Method of Rating, and 6.7 - Seniority. Continued from the meeting of October 15, 2019.

Prior to entering into the scheduled Grievance hearing, Attorney Guttman-Valdes requested to amend the original request before the Board to include a violation of Civil Service Rule 6.7 - Seniority, as it relates to the 2015 examination process for Police Lieutenant's exam. ACA Ferguson expressed an objection.

Following discussion, the Board voted to GRANT the amended request 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, Cabrera, Garcia, Jackson, Jr.

Following approval of the amended request, the Board entered into the scheduled Hearing on behalf of Edwin Gomez, John Blackerby, Robert Marana, Orville Small, Reinaldo Tejera and Annette Valdivia, Police Sergeants, ("Gomez, et.al." or "the Grievants") pursuant to Civil Service Rule 16.1 – Investigation by the Board and 16.2 – Complaint by Employee. The Grievants are alleging a violation of Civil Service Rules 6.7 – Seniority, as it concerns the 2015 Lieutenants exam, and a violation of Civil Service Rules 6.3 - Contents of Examination, 6.5 - Method of Rating, and Civil Service Rules 6.7 – Seniority, as it concerns the 2017 Police Lieutenants exam.

The hearing began August 20, 2019, and continued on October 3, October 15, and concluding October 29, 2019. The Grievants were represented by Teri Guttman Valdes, Attorney, Teri Guttman Valdes, PA. The Human Resources Department was represented by Adanna Ferguson, Assistant City Attorney, and Kevin Jones, Assistant City Attorney (Supervisor), Office of the City Attorney.

Witnesses appearing at the request of the Grievants were as follows:

1. Eyran Kraus, Testing and Validation Supervisor, City of Miami Department of Human Resources. Questions were posed by Members Garcia, Jackson and Sutton.
2. Kevin Harrison, Police Lieutenant, Department of Police. Questions were posed by Member Jackson.
3. John Blackerby, Police Sergeant, Department of Police. Questions were posed by Member Cabrera and Member Jackson.
4. Edwin Gomez, Police Sergeant, Department of Police. Questions were posed by Member Cabrera and Member Jackson.

No testimony was presented by Annette Valdivia (Rotolo), Police Sergeant; however, Attorney Guttman Valdes stipulated that the Sergeant's testimony echoed that of the other Grievants.

The Grievants rested.

Witnesses appearing at the request of the Department were as follows:

Reinaldo Tejera, Police Sergeant, City of Miami Department of Police. Witness Tejera confirmed that the testimony of Grievant Gomez was his as well.

1. Orville Small, Police Sergeant, City of Miami Department of Police. Witness Small confirmed that the testimony of Grievant Gomez was his as well.

The Department rested. The Grievants waived rebuttal.

During Member Jackson's questioning of one of the witnesses, he requested the appearance of Rodolfo Bertrand, Police Lieutenant. Following discussion, the Chair asked to Subpoena Rodolfo Bertrand, Police Lieutenant, to appear at the regular Civil Service Board meeting of October 29, 2019. The following witness testified at the request of the Board:

Rodolfo Bertrand, Police Lieutenant, City of Miami Department of Police. Questions were posed to witness Bertrand by Member Jackson.

Prior to closing statements, Chair Sutton asked for clarification of the "4/5ths Rule" and asked if there was adverse impact with this exam. Dr. Kraus responded that the report states there is no adverse impact with this exam, which is why the City of Miami was released from the Consent Decree for Police Lieutenant.

ACA Ferguson expressed concerns of the Board shifting the burden of proof on the Department. She went on to explain that generally, in a Rule 16 hearing, the Grievants have the burden to prove that the Department violated Civil Service Rules.

Kimare Dyers, Civil Service Board Special Counsel reminded the Board that this hearing was pursuant to Civil Service Rule 16, Grievances and Abuses, Sec. 16.1 - Investigation by the Board and Sec. 16.2 - Complaint by Employee and as part of the Board's Investigation Hearing, they have a right to ask questions, request witnesses and exhibits, and investigate as they see fit, in order to make a decision and fulfill its obligations under Rule 16.1.

Chair Sutton went on to say he is not convinced, nor are his colleagues that "standardizing" exam and seniority scores is the fair way of doing things, especially as there is only one person in the City who understands how and why this occurred. Moving forward it is expected that this matter of correct application of the seniority rule, as well as general transparency in the selection process, particularly for sworn positions, will continue to be an issue.

Following discussion, ACA Ferguson requested that Chair Sutton recuse himself from the hearing, citing an adversarial relationship with Eyran Kraus, Testing and Validation Supervisor, that he has admitted to during the various dates of this hearing. Following discussion, Chair Sutton denied the request and the hearing proceeded.

Member Cabrera asked for clarification of how seniority and scoring was calculated and requested an explanation. He went on to say he reviewed many documents and believed it was pertinent to get an explanation from the only person who is qualified in the City of Miami. Dr. Kraus advised that he must sit with the applicant and explain the process.

Exhibits were introduced by both sides, and the Board's exhibits were marked. Both sides presented closing arguments.

Following review and consideration of testimony, exhibits, and argument of counsel, Chair Sutton called for Board deliberations and asked the Executive Secretary to read into the record as to violations of the Rules cited.

Member Cabrera was not satisfied with the Department's failure to disprove the claim that the seniority was improperly applied pursuant to the Civil Service Rule.

Member Jackson opined that the process is not transparent. He went on to explain that the process is "muddy". He attempted to do the math and it didn't add up.

Following discussion, a motion was entered finding a VIOLATION of Rule 6.7 – Seniority, as it relates to the 2015 Police Lieutenant's exam, which resulted as follows:

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

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

The Board entered a motion finding NO VIOLATION of Civil Service Rule 6.3 - Contents of Examinations, as it relates to the 2017 Police Lieutenant's exam, which resulted as follows:

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

**AYES:** Sutton, Jackson, Jr.

**NOES:** Garcia, Cabrera

The previous motion having failed, the Board continued discussion. Member Cabrera explained he seconded the motion for discussion purposes. He referred to an email that was introduced specifically indicating the areas to study; however, one was not included in the examination. He believed there was a violation of the content.

Following discussion, the Board entered a motion of finding a VIOLATION of Civil Service Rule 6.3 - Contents of Examinations, as it relates to the 2017 Police Lieutenant's exam, which resulted as follows:

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

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

Following discussion, the Board entered a motion of finding a VIOLATION of Civil Service Rule 6.5 - Method of Rating, as it relates to the 2017 Police Lieutenant's exam, 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, Cabrera, Garcia, Jackson, Jr.

Member Cabrera pointed the Board's attention to the emails in question and explained the reason why he voted in favor of the Grievants.

Following discussion, the Board entered a motion of finding a VIOLATION of Civil Service Rule 6.7 - Seniority, as it relates to the 2017 Police Lieutenant's exam, which resulted as follows:

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

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

Member Cabrera stated that he had to process a lot of information during the Investigation hearing. He went on to say if he was accused of doing something and had an opportunity to clear his name, he would. He had questions that went unanswered and as a citizen he would have like to get an answer.

Member Jackson concurred Member Cabrera's comments.

Member Sutton stated that being told that they are incapable of understanding the process because they do not possess a degree in Industrial Psychology is insulting. He further stated that Board members were put on the Board by the Commissioners and employees to settle disputes and serve as a mediator.

The Board entered discussion regarding a proposed remedy and recommendation to the City Manager and Director. Following discussion, the Board entered a motion to recommend that the City provide a clear, transparent selection process for all exams. It is reasonable and affects morale in a positive manner, leading to fewer grievances of this type, which resulted as follows:

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

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

**ADJOURNMENT:**

Lunch: 1:04 PM - 2:11 PM

There being no further business before the Board, a motion was entered to adjourn the meeting at 3:40 pm, which resulted as follows:

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

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

**SIGNATURE:**

**Troy Sutton, Chairperson**

**ATTEST:**

**Tishria L. Mindingall, Executive Secretary**

