

City of Miami

3500 Pan American Drive
Miami, FL 33133
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Meeting Minutes

Tuesday, October 31, 2023
10:00 AM
Commission Chambers

Civil Service Board

Troy Sutton, Chairperson
Rodrigo Jimenez, 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 10:16 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
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, seconded by Board Member Garcia, that this matter be Approved, passed by the following vote:

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

A. Approving of the Minutes

A.1 Civil Service Board - Regular Meeting - October 17, 2023

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

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

B. Personnel Matters

B.1 Copy of a memorandum from Asael Marrero, Director, Building Department, requesting an extension of probationary period of Daniel Lemaitre, Senior Building Inspector, for six (6) additional months beyond November 30, 2023. (DISCUSSION)

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

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

C. Military Leaves of Absence

C.1 Enrique Acosta, Firefighter, requests re-employment as a Firefighter, following his return from Active Duty Military Leave. Copy of a memorandum from the Air Force, indicating Honorable Discharge submitted. (DISCUSSION)

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

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

D. Disciplinary Matters

D.1 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying David Valuja, Police Officer, of a 10-hour suspension, effective October 15, 2023. (NOTIFICATION)

- D.2 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying David Valuja, Police Officer, of a 10-hour suspension, effective October 22, 2023, and 10-hour forfeiture. (NOTIFICATION)
- D.3 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying David Valuja, Police Officer, of a 10-hour suspension, effective October 29, 2023, and 30-hour forfeiture. (NOTIFICATION)
- D.4 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying Katly Guerrier, Police Officer, of a 10-hour suspension, effective October 23, 2023. (NOTIFICATION)
- D.5 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying Scot Russell, Police Officer, of a 10-hour suspension, effective October 20, 2023. (NOTIFICATION)
- D.6 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying Reynaldo Goyos, Police Officer, of a 10-hour suspension, effective October 30, 2023, and 100-hour forfeiture. (NOTIFICATION)
- D.7 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying Roselyn Paz, Police Officer, of a 10-hour forfeiture, effective October 26, 2023. (NOTIFICATION)
- D.8 Copy of a letter from Chief of Police Manuel A. Morales, Department of Police, notifying Daniella Mendiola, Police Officer, of a 10-hour forfeiture, effective October 26, 2023. (NOTIFICATION)

E. General Items

- E.1 Copy of a Judgment from Arthur Noriega, V., City Manager, concerning the Appeal Hearings on behalf of Mario Gonzalez, former Police Officer, relative to his Termination, effective November 9, 2021 (CSB #21-21D-Reprimand #21-171 & CSB #21-22D - Reprimand #21-172). (NOTIFICATION)
- E.2 Copy of a Judgment from Arthur Noriega, V., City Manager, concerning the Whistleblower Hearing on behalf of Heather Morris, former Deputy Chief of Police, in accordance with Florida Statute 112.3187, relative to her Termination, effective October 4, 2021. (NOTIFICATION)
- E.3 Copy of a Request to Continue from Adanna Ferguson, Senior Assistant City Attorney, concerning the Whistleblower Hearing of Alfredo Matias, former Police Officer, as it relates to his Termination, effective January 27, 2022 (CSB#22-8G). (DISCUSSION) *Whistleblower Hearing is scheduled for today.*

Stephanie Panoff, Sr. Assistant City Attorney, appeared before the Board and advised that Ms. Ferguson is no longer employed with the City of Miami. She further advised that ACA Jazmine Preston-Oneil will be handling this matter; however, she needs additional time to properly prepare for the hearing. Michael Pizzi, Attorney, on behalf of Alfredo Matias, Appellant, appeared via Zoom and expressed his objection to the continuance.

Following discussion, the Board entered a motion to GRANT the Continuance, which resulted as follows:

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

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

- E.4 Copy of a Motion to Dismiss from Stephanie Panoff, Chief of Labor & Employment Division, on behalf of the City of Miami, concerning the Appeal Hearing of Edwin Gomez, retired Police Sergeant (CSB# 20-04D). (DISCUSSION) Hearing is scheduled for May 13-14, 2024.

Stephanie Panoff, Sr. Assistant City Attorney appeared before the Board to explain her reasoning for the Motion to Dismiss as it relates to Civil Service Board Rule 14.6 – Resignation Before Appeal. William Amlong, Attorney on behalf of Edwin Gomez, appeared via Zoom and expressed an objection to the motion.

Special Counsel explained Civil Service Rule 14.6 regarding resignation; however, it is the employee’s position that he retired, and therefore, the Rule does not apply. Special Counsel went on to say that the Board had several cases in the past concerning resignation vs retirement; therefore, he suggested this matter be tabled for the next meeting to allow additional research.

Following discussion, the Board made a motion to TABLE this matter to the meeting of November 14, 2023, which 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, Jimenez, Cabrera, Garcia, Jackson, Jr.

F. Reports

- F.1 Hearings Pending List as of October 31, 2023. (NOTIFICATION)

Board Member Cabrera, noting that both counsels were present for the hearing set for November 7, 2023, asked the Board to consider the Special meeting set on that date. ACA

Panoff advised the Board that the Appeal Hearing of David Flanders, scheduled for November 7, 2023, will be settled, but the Agreement needs to be finalized.

Following discussion, the Board entered a motion to carry this matter over to the regular meeting of November 14, 2023, and CANCEL the special meeting of November 7, 2023, 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, Jimenez, Cabrera, Garcia, Jackson, Jr.

G. Requests for Hearings

- G.1** Copy of a request from Edwin Gomez, Police Sergeant (retired) for a Whistleblower Hearing in accordance with Florida Statute 112.3187 and an Investigation Hearing pursuant to Civil Service Rule 16.1 - Investigation by the Board, concerning an alleged Abuse of Power, and a copy of rebuttal documents submitted by ACA Stephanie Panoff. (DISCUSSION)

Ret. Sgt. Edwin Gomez appeared before the Board to explain his reasoning for the request. ACA Panoff requested that the Board deny the request for hearings. She went on to explain that pursuant to Florida Statute 112.3187 (Whistleblower Act), the employee must file for a hearing within a certain period of time, and must have experienced an adverse action, and that he had not provided evidence of that. The Board requested Mr. Gomez to elaborate upon his request because what was before them did not warrant a Hearing. The Board asked additional questions and received responses. Following discussion, the Board made a motion to DENY the requests, 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, Jimenez, Cabrera, Garcia, Jackson, Jr.

H. Today's Hearings

- H.1** Grievance Hearing on behalf of Lizlinda Bremer, et al. Police Sergeants, pursuant to Civil Service Rule 16.2, alleging violation of Rules 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results, and 6.7-Seniority, in reference to the 2022 Police Lieutenant Promotional Exam. Continued from the meeting of October 17, 2023.
- H.2** Grievance Hearing on behalf of Maximiliano Valdes, Raul Delgado & Robert Perez, Police Sergeants, pursuant to Civil Service Rules 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results, and 6.7-Seniority, in reference to the 2022 Police Lieutenant Promotional Exam. Continued from the meeting of October 17, 2023.

Day 1: September 19, 2023

The Board entered into the scheduled Grievance Hearings, alleging violation of Civil Service Rules 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results, and 6.7-Seniority, in reference to the 2022 Police Lieutenant Promotional Exam.

Attorney Eugene Gibbons, Fraternal Order of Police, appeared on behalf of Lizlinda Bremer, Surami Kelly, Ariel Perez, and David Bernat (CSB #22-30G-A), Police Sergeants, ("Bremer, et al." or "the Grievants"), and Attorney Teri Guttman-Valdes appeared on behalf of Maximiliano Valdes, Raul Delgado, and Robert Perez, (CSB #22-30G-B), Police Sergeants, (Valdes, et al." or "the Grievants"), as it relates to the 2022 Police Lieutenant Promotional Examination.

Stephanie Panoff and Adanna Ferguson, Sr. Assistant City Attorneys, appeared on behalf of the Department of Human Resources.

Prior to the start of the Hearing, Attorney Gibbons requested to consolidate both cases. ACA Ferguson expressed no objection. Attorney Gibbons went on to explain to the Board that per his request, subpoenas were issued; however, he did not see his witnesses and received notification that the Director of Human Resources is unavailable. Member Cabrera wanted to put on record that he recalled a similar situation that was brought to the Board's attention when employees were summoned to appear and the subpoena was not served and/or employees didn't appear; however, in this case the witness is unavailable. He went on to say that when City of Miami employees are summoned to appear, they need to show up. He asked the Chair to take a break to see if the Director of Human Resources could appear via Zoom. Special Counsel stated that the Grievants have a right for due process; therefore, when subpoenas are issued, the employee is compelled to appear. The hearing took place over several days, as indicated below.

Day 1: September 19, 2023

Following a break, the Board entered the Grievance Hearing on behalf of Bremer, et al. and Valdes, et al., alleging violation of Civil Service Rules 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results and 6.7-Seniority.

The Rule of Witnesses was invoked, and witnesses were cautioned not to discuss their testimony with anyone. Opening statements were provided by Eugene Gibbons, Attorney.

The hearing began September 19, 2023, and continued on October 17, 2023, and concluded October 31, 2023. The Board heard testimony from the Grievant's witnesses, appearing in the following order:

1. Angela Roberts, Director, City of Miami Department of Human Resources. Questions were posed by Members Cabrera, Jackson, Sutton, and Jimenez.
2. Francine Chacon, Sr. Human Resources Generalist, City of Miami, Department of Human Resources. Questions were posed by Members Cabrera, Jimenez, and Sutton.

3. *Eyran Kraus, Testing and Validation Supervisor, City of Miami Department of Human Resources. Questions were posed by Members Cabrera, Jackson, Sutton, Jimenez, and Garcia.*

Due to time constraints, the testimony of Eyran Kraus, Testing and Validation Supervisor, continued at the regular meeting of October 17, 2023.

During Member Cabrera's questioning of Witness Kraus, he was asked to submit to the Civil Service Board Office the contact information of the representative from the testing company, Talogy, and the subject matter expert in the Miami Police Department he communicated with, so that they could be subpoenaed for the hearing. Additionally, Chair Sutton asked staff to subpoena Police Chief Manuel Morales to appear at the next hearing date.

Day 2: October 17, 2023

The Board resumed the Grievance Hearing on behalf of Lizlinda Bremer, et. al. and Valdes, et al., Police Sergeants, alleging violation of Civil Service Rules 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results, 6.7-Seniority, and 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results, and 6.7-Seniority.

Sr. ACA Panoff appeared and explained to the Board; although it is not the City's burden in a Grievance hearing, she had several conversations with the attorney for PSI Services and Talogy Inc. and they respectfully declined the request to appear, conveyed by the Office of the City Attorney at the request of the Board. ACA Panoff provided a written letter from Attorney Alejandro Miyar on behalf of PSI Services and Talogy, Inc.

Prior to the continuation of the direct examination of Witness Kraus, Testing and Validation Supervisor, questions were posed by Members Jackson, Cabrera and Sutton and several public records requests were made. ACA Panoff acknowledged receipt of the public records request.

Day 3: October 31, 2023

The Board resumed the Grievance Hearing on behalf of Bremer, et al. and Valdes, et al., Police Sergeants, alleging violation of Civil Service Rules 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results, 6.7-Seniority, and 6.3-Contents of Examination; 6.5-Method of Rating; 6.6-Rating of Examination Results, and 6.7-Seniority.

Following conclusion of the testimony of Witness Kraus, witnesses testifying before the Board, pursuant to the Board's request:

4. Jesus Ibalmea, Police Major, City of Miami Department of Police. Questions were posed by Members Jackson, Cabrera and Sutton.
5. Felix Del Rosario, President, Fraternal Order of Police. Questions were posed by Members Cabrera and Sutton.
6. Chief Manuel A. Morales, Police Chief, City of Miami Department of Police. Questions were posed by Members Sutton and Cabrera.

The following witness testified on his own behalf:

7. Ariel Perez, Police Sergeant (Grievant), City of Miami Department of Police. Questions were posed by Members Jackson, Cabrera and Sutton.

In an effort of expediency and avoiding redundant testimony, Attorneys Gibbons and Guttman-Valdes stipulated that the other Grievants' testimony echoed that of witness Perez. Grievants rested.

The City called no witnesses and both sides waived closing arguments.

The Board entered into review of the testimony and marked exhibits, and discussed whether to vote on all charges together, or to consider them independently.

Following discussion, the Board made a motion to vote on all allegations at once, 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, Jimenez, Cabrera, Garcia, Jackson, Jr.

The Board entered into deliberations and Chair Sutton asked the Executive Secretary to read into the record as to violations of the Rules cited. Following discussion, a motion was entered finding that the City did VIOLATE the following Rules in reference to the 2022 Police Lieutenant Promotional Exam:

Rule 6.3 – Contents of Examination.

Rule 6.5 – Method of Rating.

Rule 6.6 – Rating of Examination Results.

Rule 6.7 – Seniority.

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

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

Recommendation Phase:

Having ruled on the allegations, in accordance with Rule 16.2, the Board entered into discussion regarding a proposed remedy and recommendations to the City Manager and Director of Human Resources. Witnesses appeared in the following order:

1. Lizlinda Bremer, Police Sergeant (Grievant), City of Miami Department of Police. Questions were posed by Member Sutton, Cabrera, Jackson Jr.
2. Raul Delgado, Police Sergeant (Grievant), City of Miami Department of Police. Questions were posed by Member Sutton.

Member Jackson opined that the examination was not transparent. He went on to explain that the test takers weren't allowed to review their exams and know how they performed on each component.

Member Cabrera was disheartened with not having a representative from the Testing Company (Talogy) or someone to answer specific questions as it relates to “standardizing” the exam and seniority scores. He went on to explain that he was concerned with how seniority was applied, and the applicants need clarity regarding how the scores were calculated and added, specifically in accordance with Civil Service Rule 6.7. Additionally, he recommended not to provide the department with a “Courtesy List”.

Chair Sutton stated that Chief Morales should be more involved in the [testing] process and/or designate someone to learn the process in and out so that it can be explained to others.

Under discussion, Chair Sutton and Member Cabrera made a public records request for raw scores and scantron sheets of all applicants who took the 2022 Police Lieutenant’s exam. ACA Panoff acknowledged receipt of the public records request.

Following discussion, the Board entered a motion to recommend the following:

1. The Department of Human Resources must communicate clearly to examinees how exam scores are determined. Raw scores should be returned to the Department of Human Resources from the testing company for the adding of seniority, veteran preference etc. scores, and computing a final register score.
2. That a Board/Committee be established to determine the test schedule, dimensions, components, scoring methodology and any other pertinent information. The committee should include persons representing the Department Administration, Labor and Human Resources staff.
3. Part of contract negotiations with the testing company should include requiring a representative from the company to respond to questions regarding test development, administration scoring and reporting.
4. Require raw scores from Talogy be sent to the Department of Human Resources for addition of other required scoring (which will be the veteran preference and seniority) for recomputing and revised register establishment.
5. The Department of Human Resources should eliminate the creation and forwarding of a “courtesy list”, as this has resulted in a great deal of confusion among the examinees.

Member Cabrera requested to redact recommendation #2. Member Sutton agreed and requested the Executive Secretary to read #4 again. She read into the record #4 and Chair Sutton requested to revise it to read the following:

1. Require raw scores from the 2022 Police Lieutenant exam be sent from Talogy to the Department of Human Resources for addition of other required scoring, and for recomputing a revised Eligible Register and promote accordingly.

Member Cabrera added that this should not affect the 20 employees who were promoted.

Following discussion, the Board entered a motion approve the Recommendations, which resulted as follows:

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

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

ADJOURNMENT:

Breaks were taken as follows: 11:52am – 12:16pm; 2:23pm – 2:43pm.

There being no further business before the Board, a motion was entered to adjourn the meeting at 4:45 pm, which resulted as follows:

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

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

SIGNATURE: Troy Sutton, Board Chairperson

ATTEST: Tishria L. Mindingall, Executive Secretary