

## City of Miami

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

### Meeting Minutes

Tuesday, February 25, 2020  
9:00 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 10:00 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	Late
Ulysses Garcia	Board Member	Present
Wilbur M. Jackson, Jr.	Board Member	Present

Member Cabrera arrived at 9:13am and Member Jackson departed at 2:00pm.

### 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, Garcia, Jackson, Jr.

#### A. Approving of the Minutes

A.1 Civil Service Board - Regular Meeting - February 11, 2020 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, Garcia, Jackson, Jr.

#### B. Personnel Matters

B.1 Copy of a memorandum from Chief Joseph E. Zahralban, Director, Department of Fire Rescue, requesting an extension of probationary period of Alexandre Albertson, Firefighter, six (6) additional months beyond July 28, 2020. (DISCUSSION)

Following appearances 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 Winsor Lozano, Police Captain, requests re-employment as a Police Captain following his return from Military Leave (Air Force). Copy of a letter indicating Honorable Discharge 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 Garcia, that this matter be Approved, passed by the following vote:**

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

C.2 Michael Rivera, Police Officer, requests re-employment as a Police Officer following his return from Military Leave (Army/USAR). Copy of his DD214 indicating Honorable Discharge 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 Garcia, that this matter be Approved, passed by the following vote:**

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

C.3 Gabino Soto, Fire Lieutenant, requests Active Duty, Military Leave without pay effective February 16, 2020 for a period of 15 days. 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 Dames, that this matter be Approved, passed by the following vote:**

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

#### **D. Disciplinary Matters**

D.1 Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Christian Hernandez, Police Officer, of a 40-hour forfeiture, effective February 15, 2020. (NOTIFICATION)

D.2 Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Edwin Gomez, Police Sergeant, of a 160-hour suspension, effective February 24, 2020. (NOTIFICATION)

#### **E. General Items**

#### **F. Reports**

F.1 Hearings Pending List as of February 25, 2020. (NOTIFICATION)

#### **G. Requests for Hearings**

G.1 Request from Dana C. Carr, Police Captain, for an Investigation Hearing pursuant to Civil Service Rule 16.1- Abuse of Power and 16.2- Complaint by Employee, alleging violation of Rule 14.10- Reduction in Pay or Position. (DISCUSSION)

Dana C. Carr, Police Captain, appeared before the Board and explained the reasoning behind her request for hearing.

Adanna Ferguson, Assistant City Attorney, appeared on behalf of the Department and objected to the request for hearing. She went on to explain that the request before the Board is under Rule 16.1 Abuse of Power; however, Captain Carr is alleging a violation of Rule 14.10 Reduction in Pay or Position. ACA Ferguson further explained that Captain Carr was an "at-will" employee in the position of Commander and Civil Service Rule 14 applies to classified positions only, not unclassified, part-time, temporary, etc.

Following questions by the Board to Captain Carr and ACA Ferguson, and responses to the Board Members' questions, a motion was made by Member Dames to GRANT the request. The motion DIED FOR LACK OF A SECOND.

Following continued discussion, Captain Carr amended her request to remove violation of Civil Service Rule 14.10. She went on to explain that she believes there was an Abuse of Power by Jorge R. Colina, Chief of Police, for allowing Internal Affairs to conduct unwarranted investigations which violated her rights under FSS 112.534 and APM 2-12.

Member Cabrera asked Special Counsel to weigh in as to whether the Board is the proper forum for the request and/or the duty of the Board to investigate. Kimare Dyer, Special Counsel responded in the affirmative, and read a portion of Rule 16.1 in response.

Following discussion, a motion was made to GRANT a Preliminary Investigation hearing done by the Chief Examiner, pursuant to Civil Service Rule 16.1, alleging a violation of FSS 112.534, 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.

**NO:** Dames

Member Dames reminded the Board that their term-limit is near and by the time his investigation is done, it may be a new Board. Following discussion, Member Jackson WITHDREW his previous motion.

Chair Sutton passed the gavel to Member Cabrera and a motion was made to DENY the request, which resulted as follows:

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

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

**NO:** Dames

Member Dames wanted on record that this action went against Special Counsel's opinion. He went on to explain having been on the Board several years, he believes this it is the duty of the Board to hear matters such as this because in the past, when matters end up in court, one of the first things the judge asks is whether the employee exhausted his/her administrative remedies.

G.2 Request from Yamil Herrera, Police Officer, for a Grievance hearing pursuant to Civil Service Rule 16.2- Complaint by Employee, alleging violation of Rule 8.14- Police Promotion.  
(DISCUSSION)

Yamil Herrera, Police Officer, appeared before the Board and explained the reasoning behind his request.

Adanna Ferguson, Assistant City Attorney, appeared on behalf of the Department and objected to the request for hearing. ACA Ferguson provided the Board with copies of the Job Announcement, and Article 44 of the FOP contract and explained reasons why the request should be denied. She advised the Board that Officer Herrera had the opportunity to take the exam; however, by his own admission, he chose not to apply.

Following questions from Members Jackson and Sutton a motion was entered to DENY the request as follows:

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

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

**NO:** Dames

#### **H. Today's Hearings**

H.1 Continuation of hearing of Appeal on behalf of Xiao-Wen Michelle Choi, Principal Staff Analyst, concerning her demotion, effective November 14, 2017.

#### **Day 4:**

The Board continued with the scheduled Appeal hearing on behalf of Xio-Wen Michelle Choi, Principal Staff Analyst, concerning her demotion, effective November 14, 2017.

The hearing began October 7, 2019, and continued December 10, 2019. The matter recessed and reconvened December 11, 2019.

The Appellant was represented by Charles Mays, Attorney, Charles Mays, P.A. The Miami Police Department was represented by Adanna Ferguson, Assistant City Attorney, Office of the City Attorney.

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

1. Orlando Aguilera, Special Project Coordinator, City of Miami Police Department. Questions were posed by Member Dames.
2. Bianca Joseph, Commander, City of Miami Police Department. Questions were posed by Member Dames.
3. Natalie Martinez, Executive Officer to the Chief, City of Miami Police Department. Questions were posed by Member Dames and Chair Sutton.

Following a break and discussion, at 4:40pm, a motion was entered to RECESS the hearing for the day and reconvene February 27, 2020, which resulted as follows:

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

**AYES:** Sutton, Dames, Cabrera, Garcia,

#### **ADJOURNMENT:**

**Breaks were taken at: 11:21 AM -11:58 AM; 1:22 PM - 2:10 (lunch); 4:21 PM - 4:30 PM**

There being no further business before the Board, a motion was entered to adjourn the meeting at 4:39 pm, which resulted as follows:

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

**AYES:** Sutton, Dames, Cabrera, Garcia

**SIGNATURE:**

Troy Sutton, Chairperson

**ATTEST:**

Tishria L. Mindingall, Executive Secretary