

City of Miami

3500 Pan American Drive
Miami, FL 33133
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Meeting Minutes

Tuesday, April 16, 2024

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 10:23 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, Jr., seconded by Board Member Cabrera, 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 - March 19, 2024

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

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

A.2 Civil Service Board - Special Meeting - April 8, 2024

Motion by Board Member Jackson, Jr., seconded by Board Member Cabrera, 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 Chief Robert Hevia, Director, Fire-Rescue Department, requesting an extension of probationary period of Manuel Rodriguez, Firefighter, for six (6) additional months beyond May 1, 2024. (DISCUSSION) ITEM ADDITION

Grant Musser, Executive Officer to the Fire Chief appeared before the Board on behalf of the Department and confirmed the request. Firefighter Rodriguez was also present and confirmed that he understood the department's request and had no objection to the extension. Following discussion, the Board voted to grant the requested extension of probation 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.

C. Military Leaves of Absence

C.1 Angelo Viniegra, Firefighter, requests Military Leave without pay from March 5, 2024, through April 2, 2024. Copy of Orders submitted. (DISCUSSION)

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

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

C.2 Alfredo Soler, Assistant Supervisor of Payroll, requests Military Leave without pay from January 9, 2024 through April 23, 2024. Copy of amended Orders 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.

C.3 Freddy Santos, Firefighter, requests retroactive Military Leave without pay from March 3, 2024, through March 13, 2024. Copy of Orders submitted. (DISCUSSION)

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

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

D. Disciplinary Matters

E. General Items

E.1 Copy of a request to continue from Stephanie K. Panoff, Chief of Labor and Employment Division, concerning the Grievance Hearing of Wesleyne Lewis Francois, Police Lieutenant, as it relates to Civil Service Rule 16.1- Abuse of Power (CSB#23-12I). Griska Mena, Staff Counsel, expressed no objection. (DISCUSSION) Grievance Hearing is scheduled for today.

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.

E.2 Copy of a Judgment from Arthur Noriega, V., City Manager, concerning the Grievance Hearing on behalf of Lizlinda Bremer, et. al. 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 (CSB#22-30G-A & CSB#22-30G-B). (NOTIFICATION)

E.3 Proposed Amendment adding Civil Service Rule and Regulation Section 16.3- Whistleblower. (DISCUSSION) Tabled from the meeting of March 19, 2024.

Special Counsel Clyne advised the Board of his draft proposed amendment to Rule 16, adding Civil Service Rule 16.3 to the Civil Service Rules and Regulations. ACA Preston O'Neil advised that Stephanie Panoff, Chief of Labor Division, City Attorney's Office, was unable to attend today's meeting; however, she forwarded an email advising that the City does not support a Rule 16.3. Nonetheless, should the Board desire to do so, it should reflect the statute and the third DCA's 2016 ruling on public employees:

A current City of Miami employee may elect to bring a grievance alleging they are a whistleblower under State law before the Board. To fall under the definition of whistleblower, the employee must disclose malfeasance or misfeasance, as defined by Florida Statute Section 112.3187(5), and must disclose such information in a way that complies with Florida Statute Sections 112.3187 (6) & (7). Further, an employee bringing such claim must establish that they suffered from an adverse employment action and that such action was because of the disclosures made under Section 112.3187.

Special Counsel advised he would like to work with the City Attorney's Office and the Unions; however, he has not heard from any of the Unions. He stated he would like to table this item and see if we can get any feedback from the stakeholders.

The Executive Secretary advised the Board that staff has sent out proper notice regarding this matter, and today is a public hearing for discussion.

Chair Sutton asked staff to resend notices to get the unions involved and see what happens. Member Cabrera opined to set a date and hopefully anybody that has any suggestions should come forward so that the Board can make the best decision.

Following discussion a motion, the Board entered a motion to schedule discussion of the rule change for May 14, 2024, which resulted as follows:

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

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

E.4 Findings of Fact concerning the Appeal Hearing on behalf of Angelo Perry, Sanitation Supervisor, concerning his 40-hour suspension, effective August 8, 2022. (DISCUSSION)

Chair Sutton asked if there were any corrections or suggestions regarding the Findings of Fact concerning this hearing on behalf of Mr. Perry.

Jasmine Preston-O'Neil inadvertently expressed no objection; however, made a request to amend the Findings of Fact. ACA Preston-O'Neil stated that Mr. Perry received sufficient notice and it was his obligation to notify staff when he changed his email address.

Chair Sutton and Member Cabrera stated that they agreed with ACA Preston-O'Neil. Member Cabrera added that since his tenure, he has never heard of anyone having a communication issue with the Board staff; they do a very good job. Member Cabrera went on to say if you requested a hearing before the Board, it is your responsibility to notify staff.

Member Cabrera requested to add the following language to the Findings: "The Board finds that Mr. Perry received sufficient notice to appear, having been sent numerous emails, written letters, and telephone calls. Mr. Perry also indicated he changed his email address and forgot to notify staff. The Board does not find credible his claim that he did not receive notice."

Following discussion, a motion was made to add the verbiage as #2 of the Findings, 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.

Member Jackson opined that he agreed with his fellow board members; Mr. Perry should have notified staff, as it was his responsibility.

Following discussion, a motion was made to adopt the Findings of Fact and Recommendations as amended 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, Jimenez, Cabrera, Garcia, Jackson, Jr.

E.5 Findings of Fact concerning the Appeal Hearing on behalf of Angelo Perry, Waste Equipment Operator, concerning his Demotion, effective August 23, 2022. (DISCUSSION)

Refer to Item E4 for discussion.

Member Cabrera requested to add the following language to the Findings:

"The Board finds that Mr. Perry received sufficient notice to appear, having been sent numerous emails, written letters, and telephone calls. Mr. Perry also indicated he changed his email address and forgot to notify staff. The Board does not find credible his claim that he did not receive notice."

Following discussion, a motion was made to adopt the Findings of Fact and Recommendations as amended 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, Jimenez, Cabrera, Garcia, Jackson, Jr.

E.6 Settlement Agreement between the City of Miami and Andre F. Perez, Senior Building Inspector, concerning his Appeal Hearings, relative to a 3-day suspension, effective August 22, 2023 (CSB#23-16D) & 5-day suspension, effective December 18, 2023 (CSB#23-21D). (NOTIFICATION) Appeal Hearings will be closed and removed from the Board's docket.

Attorney Peiler appeared via Zoom and expressed his gratitude for being allowed to appear before the Board. Chair Sutton advised Attorney Peiler that his client's settlement was noted.

F. Reports

F.1 Hearings Pending List as of April 16, 2024. (NOTIFICATION)

G. Requests for Hearings

H. Today's Hearings

H.1 Grievance Hearing on behalf of Weslyne Lewis Francois, Police Lieutenant, as it relates to Civil Service Rule 16.1- Abuse of Power (CSB#23-12I).

Hearing continued, see item E.1.

H.2 Hearing Appeal on behalf of Weslyne Lewis Francois, Police Lieutenant, concerning her 10-hour suspension, effective January 10, 2023 (CSB#23-01D).

The Chairman called for the hearing on behalf of Weslyne Lewis Francois, concerning her 10-hour suspension.

Jasmine Preston O'Neil presented the Board with a copy of a Motion to Dismiss, which was forwarded to Board staff earlier that morning. ACA Preston O'Neil requested the Board to grant the motion because at the time the incident occurred the employee was in an unclassified position. She further explained it is the City's position that at the time Lieutenant Lewis Francois' incident occurred in May 2022, she was a Police Commander. ACA Preston O'Neil stated the classification of "Commander" is not in the classified service; therefore, the Board has no jurisdiction to hear the matter. ACA Preston O'Neil asked the Board to refer to the rollback letter attached to the motion.

Griska Mena, Staff Counsel appeared on behalf of Weslyne Lewis Francois, Police Lieutenant and requested that the motion be denied. Attorney Mena agreed her client was disciplined in May 2022 as a Commander and her recommended penalty was an 8-hour suspension. Attorney Mena went on to say, it was the Chief of Police that rolled her back to her classified position as Police Lieutenant and issued a 10-hour suspension. Having suffered her loss as a classified employee, she shall be afforded a hearing.

Special Counsel Clyne opined that the disciplinary letter was sent to Lieutenant Lewis Francois and the City included the right to appeal within 15 days in accordance with the Civil Service Rules and Regulations. He added that the department should have disciplined Lieutenant Lewis Francois as a Commander. Additionally, Special Clyne expressed his displeasure with the City Attorney's Office with producing a Motion to Dismiss two hours before the Civil Service Board hearing.

Under discussion, Member Jackson asked ACA Preston O'Neil if the rollback was a part of the discipline. ACA Preston O'Neil responded they were several matters contributing to the rollback.

Following questioning by Board Members and responses by ACA Preston O'Neil, the Board entered a motion to DENY the Motion to Dismiss, which resulted as follows:

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

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

Chair Sutton asked if the parties wished to take a break prior to the start of the hearing to see if an amicable resolution could be reached prior to continuing the hearing. The parties responded in the affirmative. Upon return from break, ACA Preston O'Neil advised the Board that the parties were unable to reach an agreement, to which Staff Counsel Mena concurred.

Jasmine Preston O'Neil, Assistant City Attorney represented the Department. Griska Mena, Staff Counsel, represented the Appellant.

Opening statements were made by both ACA Preston O'Neil and Staff Counsel Mena.

The following witnesses appeared at the request of the Department, were sworn in, and provided testimony:

1. Um Ramos, Major, Miami Police Department. Questions and comments were posed by Chair Sutton, Member Jackson Jr, Member Cabrera, and Member Jimenez

The Department rested.

The following witnesses appeared at the request of the Employee, were sworn in, and provided testimony:

2. Weslyne Lewis Francois, Police Lieutenant, Miami Police Department. Questions and comments were posed by Member Cabrera, Member Jimenez, Member Jackson Jr.
3. Gaston Arellano Ed.D., Director of Campus Operations, Immaculata-LaSalle High School. Questions and comments were posed by Member Cabrera and Chair Sutton

The Appellant rested.

The parties proceeded to enter and review the testimony and exhibits. Chair Sutton called for Board deliberations. Following discussion, the Board entered a motion to

rule on the charges at once, rather than one at a time, which resulted as follows:

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

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

Under discussion, Member Cabrera stated that it seemed improper that no one knew how the Specialized Investigations Section (SIS) was notified of Lieutenant Lewis Francois' whereabouts; nonetheless, her superiors didn't even take action. He went on to say, the Lieutenant's demeanor and testimony were credible.

Member Jackson added that he believed Lieutenant Lewis Francois followed the spirit of the rules and did her due diligence. Member Jimenez agreed with the ACA Preston O'Neil that our children should be protected; however, he felt Lieutenant Lewis Francois (then Commander) provided her full attention to the situation. Chair Sutton stated that it seemed like the department "stacked the deck" and it appeared to be a witch hunt.

Having combined all charges, the Board entered a motion to find appellant NOT GUILTY of all charges, which resulted as follows:

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

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

ADJOURNMENT:

Breaks were taken at: 11:16 am – 11:50 am

There being no further business before the Board, a motion was entered to adjourn the meeting at 2:05 pm, 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, Jimenez, Lindsey, Garcia

SIGNATURE: Troy Sutton, Chairperson

ATTEST: Tishria L. Mindingall, Executive Secretary