

City of Miami

*3500 Pan American Drive
Miami, FL 33133
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Meeting Minutes

Tuesday, September 18, 2018

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 10:06 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: Troy Sutton, Rafael Cabrera, Ulysses Garcia, Wilbur M. Jackson, Jr.

A. APPROVING OF THE MINUTES**A.1 Civil Service Board - Regular Meeting - August 21, 2018**

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

B.1 Copy of a letter from Angela Roberts, Director of Human Resources, concerning Terrance Montgomery as it relates to Civil Service Rule 6.4 - Veteran's Preference. (NOTIFICATION)

- B.2** Copy of a memorandum from Angela Roberts, Director, Department of Human Resources, confirming the request of Donald Espitia, Administrative Assistant I, to return to his former classification of Administrative Aide II, effective September 3, 2018. (NOTIFICATION)
- B.3** Copy of a memorandum from Erica Paschal, Director, Finance Department, requesting an extension of probationary period of Eric Garrett, Financial Analyst II, for six (6) additional months beyond November 13, 2018. (DISCUSSION)

Following appearances by the employee and Munirah Daniel, Assistant Director, Department of Finance, the Board entered a motion to GRANT the extension 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, Cabrera, Garcia, Jackson, Jr.

C. MILITARY LEAVES OF ABSENCE

- C.1** Roberto Luna, Firefighter requests Active Duty Training military leave without pay from September 5, 2018 through September 28, 2018. Copy of Orders Submitted. (NOTIFICATION)
- C.2** Alain Etienne, Police Officer, requests Active Duty without pay, effective August 19, 2018 through September 30, 2018. 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 Cabrera, that this matter be Approved, passed by the following vote:

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

- C.3** Marc E. Sauld, Police Officer, requests re-employment as a Police Officer following his return from Military Leave. Copy of his Military Release Letter indicating Honorable Discharge 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 Mario F. Nuñez, Director of Solid Waste Department, notifying Robert Williams, Superintendent of Solid Waste Operations, of a 15-work day suspension, effective September 5, 2018 and a copy of a Request to Appeal from Mr. Williams. (NOTIFICATION)
- D.2** Copy of a letter from Ricardo Falero, General Services Administration Director, notifying David Pettigrew, Automotive Mechanic, of a 14-day suspension, effective August, 14, 2018 and a copy of a letter from Osnat K. Rind, Attorney, on behalf of David Pettigrew, Automotive Mechanic, requesting a hearing of appeal. A hearing has been scheduled for May 14, 2019. (NOTIFICATION)
- D.3** Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Raymond Alvarez, Police Officer of a 40-hour suspension, effective August 25, 2018. (NOTIFICATION)
- D.4** Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Daniel Cantero, Police Officer of a 20-hour suspension, effective August 29, 2018. (NOTIFICATION)
- D.5** Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Daniel Cantero, Police Officer of a 10-hour suspension, effective August 28, 2018. (NOTIFICATION)
- D.6** Copy of a letter from Emilio T. Gonzalez, City Manager, notifying Mario Figueroa, Police Officer, of a Termination, effective August 16, 2018. (NOTIFICATION)
- D.7** Copy of a letter from Emilio T. Gonzalez, City Manager, notifying Graham Baptiste, Police Officer, of a Termination, effective August 16, 2018. (NOTIFICATION)
- D.8** Copy of a letter from Emilio T. Gonzalez, City Manager, notifying Manuel Perez, Property Specialist I, of a Termination, effective September 12, 2018. (NOTIFICATION)
- D.9** Copy of a letter from Emilio T. Gonzalez, City Manager, notifying Rolando Aleman, Property Specialist I, of a Termination, effective September 12, 2018. (NOTIFICATION)

E. GENERAL ITEMS

- E.1** Notice of withdrawal from Osnat K. Rind, Attorney, on behalf of Shinyamol Kondayil, IT Customer Service Manager, concerning an Investigation hearing, pursuant to Civil Service Rule 16.1 - Investigation by the Board, alleging an Abuse of Power by Kevin Burns, IT Chief Information Officer, and 16.2 - Complaint by Employee, alleging a violation of Civil Service Rules 14.2 (d), (e), (h), (i), (k), (r) and 17. (NOTIFICATION)

Case will be considered withdrawn and removed from the Board's docket.

- E.2** Notice of withdrawal from Osnat K. Rind Attorney on behalf of Lazaro Cabezas, Telecommunications Technician concerning his Grievance hearing, pursuant to Civil Service Rule 16.2 - Complaint by Employee, alleging a violation of Civil Service Rule 14.2 (e), (h), (l), (k), (m), (r). (NOTIFICATION)

Hearing of Appeal is scheduled for today September 18, 2018.

- E.3** Findings of Fact concerning the Hearing of Appeal on behalf of Barbara Reyes, Public Service Aide, concerning her 40-hour suspension, effective January 8, 2018. (DISCUSSION)

As the parties could not readily agree to the language in the Findings, the Chair, without objection, directed the Executive Secretary to carryover this matter to the Board's next meeting.

- E.4** Discussion concerning the Chief Examiner's Preliminary Investigation of Steven Miro, former District Liaison, Commissioner Carollo's office. (DISCUSSION)

Prior to discussion, Special Counsel Dyer advised that she spoke with Member Dames regarding his declaration of a conflict with conducting the Chief Examiner's investigation, and she was therefore recommending that the Board reconsider or rescind the motion granted to conduct said preliminary investigation.

The Board entered a motion to reconsider conducting the preliminary investigation, and proceed with the Grievance (Whistleblower) hearing as scheduled. Matthew Sarelson, Attorney on behalf of Mr. Miro, appeared before the Board and asked if the preliminary investigation was going to be assigned to someone else. The Executive Secretary responded that the Board was moving to not conduct the preliminary investigation via the Chief Examiner; however, it was still going to conduct an investigation, which would be in the form of the hearing.

Following discussion, the motion 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, Cabrera, Garcia, Jackson, Jr.

F. REPORTS

F.1 Pending Hearings as of September 18, 2018. (NOTIFICATION)

G. REQUESTS FOR HEARINGS

G.1 Copy of a request for hearing from Osnat K. Rind, Attorney, on behalf of Luis E. Paula, Heavy Equipment Mechanic, pursuant to Civil Service Rule 2.7-Appeal Before the Board, concerning a letter from Chief Joseph F. Zahralban, Director of Fire-Rescue Department, notifying Mr. Paula, Heavy Equipment Mechanic, of a reprimand. (DISCUSSION)

The Executive Secretary advised that the office had received notice of withdrawal of this matter.

G.2 Request for a Grievance Hearing pursuant to Civil Service Rule 16.2, from Frances Walters, Sanitation Inspector II, alleging violation of Civil Service Rule 5.4 - Disqualification and 6.3 - Contents of Examination, as it relates to her ineligibility determination on April 2018 recruitment for Sanitation Supervisor. (DISCUSSION)

Ms. Walters appeared before the Board and responded to questions regarding her request for hearing. Following discussion, Chair Sutton moved to GRANT the hearing, which died for lack of a second.

Member Jackson made a motion to DENY the request for hearing, which was seconded by Member Garcia. Following continued discussion, and response to questioning by Ms. Walters, Member Jackson withdrew his motion.

The Board considered another motion to GRANT the request for hearing, 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.

H. TODAY'S HEARINGS

H.1 Hearing of Appeal on behalf of Carmen Andreu, Employer Specialist, concerning her demotion, effective October 30, 2017, continuation from September 17, 2018

NOTE: *This hearing began at a Special meeting held on Monday, September 17, 2018, and concluded at the Regular meeting held on Tuesday, September 18, 2018. Prior to the continuation of the hearing, Chair Sutton recused himself, and passed the gavel to Member Jackson, who served as Chair for the hearing, as he had not been present on September 17, 2018.*

The Board entered into the scheduled Appeal hearing on behalf of Carmen Andreu, Employer Specialist (former). The Appellant was represented by Christopher Sharp, of Sharp Law, P.A.

The Office of Grants Administration was represented by Stephanie Panoff, Assistant City Attorney, Office of the City Attorney.

Assistant City Attorney Panoff provided opening statements. Attorney Sharp provided opening statements.

Chair Jackson asked each side for the number of witnesses they would call, in an effort to determine how much time would be needed for the chambers today. Assistant City Attorney Panoff advised that she would call four (4) witnesses - two on September 17th and two on September 18th - and Attorney Sharp responded that he would call one (1) witness - his client.

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

- 1. Angela Roberts, Director, Department of Human Resources.*
- 2. Jose Camero, Director, Department of Building. Questions were posed to witness Camero by Chair Jackson.*
- 3. Lillian Blondet, Director, Office of Grants Administration.*
- 4. Dr. Doris Danko, Medical Director, Mt. Sinai Medical Center*

The Department rested.

The Appellant testified on her own behalf. Questions were posed to Appellant by Member Garcia. Questions were posed to Appellant's attorney by Members Jackson and Cabrera. Appellant rested.

Closing statements were provided by both the Department and Appellant. The Department entered 12 exhibits. The Appellant entered 9 exhibits. The Board reviewed the exhibits and entered into deliberation.

Chair Jackson asked if any Member wished to say anything. Hearing none, he opined that he felt Ms. Andreu was a good employee and did a good job while she [worked for the City], but she was stressed with personal issues beyond her control. He went on to say that the City tried [to assist her] by extending her FMLA leave several times. He stated that he believed Dr. Danko's testimony and that she was trying to find some position that Ms. Andreu could go to. He went on to say that the City administration had to act as guardians to the residents and it is hard to justify keeping someone in a position when they're not coming to work. He further stated that he thinks Ms. Andreu's record is clear and that she had several extensions because the City felt that she was a good employee.

Member Cabrera remarked that there had been a lot of information over the course of two (2) days. He advised that he was empathetic to Ms. Andreu and is trying to balance the City's responsibility to residents, employees and what they have to do in their operations. The City had a good employee who had difficult - medical, family and work-related issues. He added that the City extended FMLA beyond what was required and even offered another position following release from the original job. He concluded that in weighing this information, he doesn't feel that the City abandoned the employee, and they provided more than 12 weeks (of FMLA leave), which wasn't required, though he struggles with the lack of communication.

Member Garcia stated that Ms. Andreu provided all of the paperwork that she needed to, and Dr. Danko spent one hour with the employee and he questioned if she could determine fitness in one hour.

Following discussion, member Garcia entered a motion to find that the City was NOT JUSTIFIED in the decision to demote Ms. Andreu, which died for lack of a second.

The Board then considered a motion to find that the City WAS JUSTIFIED in the decision to demote Ms. Andreu, which resulted as follows:

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

AYES: Cabrera, Garcia, Jackson, Jr.

H.2 Hearing on behalf of Lazaro Cabezas, Telecommunications Technician, pursuant to Civil Service Rule 16.2 - Complaint by Employee, alleging a violation of Civil Service Rule 14.2 (e), (h), (i), (k), (m) (r), granted by the Board at its January 23, 2018 meeting.

The Executive Secretary advised that the office had received notice of withdrawal of this matter.

ADJOURNMENT:

Breaks were taken at: 10:55am – 11:14am; 11:55am – 12:25pm; 1:09pm – 1:12pm; and 1:50pm – 2:30pm.

There being no further business before the Board, a motion was entered to adjourn the meeting at 5:35pm, 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: Cabrera, Garcia, Jackson, Jr.

SIGNATURE:

Troy Sutton, Chairperson

ATTEST:

Tishria L. Mindingall, Executive Secretary

