

# **City of Miami**

*3500 Pan American Drive  
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## **Meeting Minutes**

**Tuesday, February 05, 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 10:06 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	Present
Rafael Cabrera	Board Member	Present
Ulysses Garcia	Board Member	Present
Wilbur M. Jackson, Jr.	Board Member	Absent

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

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

**A. APPROVING OF THE MINUTES****A.1 Civil Service Board - Regular Meeting – January 8, 2019 10:00 AM**

A motion was entered to approve the Minutes as presented, which resulted as follows:

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

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

**B. PERSONNEL MATTERS****C. MILITARY LEAVES OF ABSENCE**

**C.1 Sandy Cabana, Police Officer, requests re-employment as a Police Officer following his return from Military Leave. Copy of his Discharge Memorandum showing an 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 Cabrera, seconded by Board Member Dames, that this matter be Approved, passed by the following vote:**

<b>AYES:</b>	Sutton, Dames, Cabrera, Garcia
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- C.2** Joaquin Freire, Lieutenant, requests Active Duty Military Leave, effective February 8, 2019 for a period of 347 days. Copies 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 Dames, seconded by Board Member Cabrera, that this matter be Approved, passed by the following vote:**

<b>AYES:</b>	Sutton, Dames, Cabrera, Garcia
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#### **D. DISCIPLINARY MATTERS**

- D.1** Copy of a letter from Emilio T. Gonzalez, City Manager, notifying Roberto Destephan, Police Sergeant, of a Termination, effective January 24, 2019. (NOTIFICATION)
- D.2** Copy of a letter from Jose Camero, Director, Building Department, notifying Jose R. Gonzalez, Senior Building Inspector, of a 3-days suspension, effective January 9, 2019 and a Request to Appeal from Mr. Gonzalez. (NOTIFICATION)

#### **E. GENERAL ITEMS**

- E.1** Notice of Withdrawal from Anthony Rolle, Procurement Contracting Manager, concerning his Appeal hearing relative to his demotion, effective October 11, 2017. Hearing is scheduled for today. (NOTIFICATION) Case will be considered withdrawn and removed from the Board's docket.

**F. REPORTS**

**F.1** Pending Hearings List as of February 5, 2019. (NOTIFICATION)

**G. REQUESTS FOR HEARINGS****H. TODAY'S HEARINGS**

**H.1** Hearing of Appeal on behalf of Clinton Jean-Pierre, former Waste Collector concerning his termination, effective September 28, 2018.

The Chairman called for the hearing of Clinton Jean Pierre, *former* Waste Collector and asked if the Department was prepared to go forward with its case today.

Adanna Ferguson, Assistant City Attorney (ACA), appeared before the Board and answered in the affirmative.

Chair Sutton asked if Clinton Jean Pierre, *former* Waste Collector (Appellant) was present at today's meeting.

Clinton Jean Pierre did not appear. Member Dames asked for the number of times Mr. Jean Pierre's hearing was scheduled and how many times had Appellant requested an extension.

Chair Sutton advised that the Appellant didn't request an extension.

The Executive Secretary responded that today this is his first scheduled appearance and should the Board wish to proceed, it can do so pursuant to Civil Service Rule 14.7.

Adanna Ferguson, Assistant City Attorney, advised the Board that Mr. Jean Pierre obtained counsel last week and a letter was presented to the Board dated February 1, 2019, advising that Nnamdi Jackson, Attorney, Law Offices of Nnamdi Jackson, P.A. represented the Appellant. ACA Ferguson went on to say, that she will give Attorney Jackson a courtesy call, to avoid any due process issues.

Following a break, Chair Sutton asked for the City's preference on this matter.

ACA Ferguson responded that the Department would prefer to hear Mr. Jean Pierre's case today since he was notified. She went on to say that pursuant to the Rules, the Board would have to proceed with the case today.

Following discussion, Member Dames made a motion to CONTINUE the hearing. The motion DIED FOR LACK OF A SECOND.

Comments were made by both Chair Sutton and Member Cabrera concerning the conduct of the hearing in the absence of the Appellant.

ACA Ferguson contacted Attorney Jackson via telephone in which he advised the Board via speakerphone, that as of February 4, 2019, he no longer represented Mr. Jean Pierre.

Member Dames asked that Attorney Jackson send that information to the Civil Service Board Office in writing.

Attorney Jackson responded in the affirmative.

During the break, at the request of Member Dames, the Executive Secretary made contact with Mr. Jean Pierre via telephone. The Executive Secretary advised the Board that Mr. Jean Pierre indicated that he put the wrong date on his calendar and that he would not be able to attend the hearing today.

No other discussion took place about Mr. Jean Pierre's absence.

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The Board entered into the scheduled Appeal hearing on behalf of Clinton Jean Pierre, *former* Waste Collector (Appellant) and proceeded pursuant to Civil Service Rule 14.7 "Failure of Parties to Appear", which states in part, "If the employee notified shall fail to appear at the time fixed for the hearing, the Board shall hear the evidence and render judgment thereon." The charging document was placed in the official record.

The Department of Solid Waste was represented by Adanna Ferguson, Assistant City Attorney (ACA), Office of the City Attorney.

Clinton Jean Pierre, *former* Waste Collector (Appellant), failed to appear for his hearing and was not represented.

Assistant City Attorney Ferguson provided opening statements.

The Department entered 9 exhibits then rested.

No testimony was presented by Appellant because neither he nor any witnesses were present at the meeting to testify on his behalf.

The Board proceeded to closing argument, which was presented by the department.

Following closing argument by Assistant City Attorney Ferguson, Member Dames stated that video #2, doesn't show whether or not Mr. Jean Pierre had a gun.

ACA Ferguson responded that the witness in the 1<sup>st</sup> video and the report from the investigating officer stated the Appellant had a gun.

Following discussion, the Board considered motions for each charge as listed below:

Civil Service Rule 14.2 (h) - *Has been guilty of actions which amount to insubordination or disgraceful conduct, whether committed on duty or off. A motion to find Appellant GUILTY was considered and resulted as follows:*

**Motion by Member Dames, seconded by Member Garcia, that his matter be Approved, passed by the following vote:**

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

Civil Service Rule 14.2 (i) – *Has been wantonly offensive in conduct or language toward the public or City officers or employees. A motion to find Appellant GUILTY was considered and resulted as follows:*

**Motion by Member Dames, seconded by Member Garcia, that his matter be Approved, passed by the following vote:**

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

Civil Service Rule 14.2 (l) – *Is careless or negligent of the property of the City of Miami. A motion to find Appellant GUILTY was considered and resulted as follows:*

**Motion by Member Dames, seconded by Member Garcia, that his matter be Approved, passed by the following vote:**

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

APM 1-99 – Workplace Violence. *A motion to find Appellant GUILTY was considered and resulted as follows:*

**Motion by Member Dames, seconded by Member Garcia, that his matter be Approved, passed by the following vote:**

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

## **PENALTY DISCUSSION:**

Having found Appellant guilty of all of the charges, the Board entered into discussion regarding recommendations to make to the City Manager. Following discussion, a

motion was made to recommend that the City Manager uphold the discipline issued by the Director of Solid Waste, which resulted as follows:

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

<b>AYES:</b>	Sutton, Dames, Cabrera, Garcia
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**ADJOURNMENT:**

Breaks were taken at: 10:23 am – 10:35 am

There being no further business before the Board, a motion was entered to adjourn the meeting at 11:21 am, which resulted as follows:

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

<b>AYES:</b>	Sutton, Cabrera, Garcia
<b>NAYS:</b>	Dames

**SIGNATURE:** \_\_\_\_\_

**Troy Sutton, Chairperson**

**ATTEST:** \_\_\_\_\_

**Tishria L. Mindingall, Executive Secretary**

