

City of Miami

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



Meeting Minutes

Tuesday, April 30, 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 10:08 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	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 Garcia, that this matter be Approved, passed by the following vote:

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

A. APPROVING OF THE MINUTES

A.1 Civil Service Board - Regular Meeting - April 16, 2019

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, Dames, Cabrera, Garcia, Jackson, Jr.

B. PERSONNEL MATTERS

B.1 Copy of a memorandum from Angela Roberts, Director, Department of Human Resources, requesting an extension of probationary period of Yaredly Hernandez Robles, Information Clerk, for six (6) additional months beyond May 14, 2019. (DISCUSSION)

Yaredly Hernandez, Information Clerk, responded to questions from the Chair and read a statement to the Board. 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, Dames, Cabrera, Garcia, Jackson, Jr.

C. MILITARY LEAVES OF ABSENCE

- C.1** Winsor Lozano, Police Captain, requests Active Duty Military Leave without pay from April 30, 2019 through November 15, 2019. 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 Garcia, that this matter be Approved, passed by the following vote:

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

- C.2** Jim Cadestin, Police Officer, requests Active Duty Military Leave without pay from April 27, 2019 through July 27, 2019. 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 Garcia, 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 Victoria Mendez, City Attorney, Law Department, notifying Monique Griffin, Legal Assistant, of a 2-day suspension, effective April 22, 2019, and a copy of a request to appeal from Osnat K. Rind, Attorney, on behalf of Ms. Griffin. A hearing will be scheduled in accordance with the Civil Service Board Rules and Regulations. (NOTIFICATION)
- D.2** Copy of a letter from Chief Jorge R. Colina, Director, Department of Police, notifying Brandon Manning, Police Officer, of a 20-hour suspension, effective April 28, 2019. (NOTIFICATION)

E. GENERAL ITEMS

E.1 Findings of Fact concerning the Whistleblower hearing on behalf of Steven Miro, concerning his Termination, effective June 14, 2018. (DISCUSSION)

Adanna Ferguson, Assistant City Attorney, appeared before the Board requesting that this matter be deferred to the next meeting to allow the Department more time to review the Findings. Mathew Sarelson, Attorney, on behalf of the employee was not present; however, he advised via email that he would not be in attendance. Hearing no objections to the request, the Board considered a motion to GRANT the request to defer this item, which resulted as follows:

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

AYES:	Sutton, Dames, Cabrera, Garcia, Jackson, Jr.
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F. REPORTS

F.1 Hearings Pending List as of April 30, 2019.

G. REQUESTS FOR HEARINGS

H. TODAY'S HEARINGS

H.1 Hearing Appeal on behalf of Sandy Dorsainvil, former Cultural Arts Center Manager, concerning her termination, effective April 4, 2016. Continuation from March 19, 2019.

NOTE: This hearing began at the Regular meeting of March 19, 2019, and concluded at the Regular meeting of April 30, 2019. The minutes below are inclusive of both dates.

The Board entered into the scheduled Appeal hearing on behalf of Sandy Dorsainvil, Cultural Arts Center Manager (*former*). The Appellant was represented by Charles C. Mays, Esquire, P.A. The Department of Real Estate and Asset Management (D.R.E.A.M.) was represented by Adanna Ferguson, Assistant City Attorney, Office of the City Attorney.

Assistant City Attorney Ferguson provided opening statements. Attorney Mays provided opening statements.

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

1. Aldo Bustamante, Assistant Director, Department of Real Estate and Asset Management. Questions were posed by Members Jackson, Dames, Cabrera, Sutton, and Garcia.
2. Daniel Rotenburg, Director, Department of Real Estate and Asset Management. Questions were posed by Members Jackson, Cabrera, Sutton and Dames.
3. Gabriel Soto, Sr. Staff Analyst, Department of Real Estate and Asset Management. Questions were posed Members Jackson, Sutton, and Dames.

The Department rested.

Mireille Gonzalez, Owner, Haitian Cultural Arts Alliance, testified at the request of the Employee. Questions were posed by Member Jackson.

The Appellant testified on her own behalf. Questions were posed by Members Jackson, Cabrera, Dames, Garcia, and Sutton.

Edward Duffie, Events Agent, testified at the request of the Board. Questions were posed by Members Garcia and Sutton.

The Appellant rested.

Closing statements were posed by both the Department and Appellant.

The Board reviewed the exhibits and Chair Sutton asked if any Member wished to say anything.

Member Cabrera had some comments concerning the way that the City of Miami's Policy (APM 1-90) reads. He asked Special Counsel whether an employee makes a profit or not, must they complete the form, even if the entity is not active. Special Counsel advised she cannot give a legal opinion on the City of Miami's Administrative Policy. ACA Ferguson advised him to submit a Legal Services Request to the City Attorney's Office and Charles Mays suggested Member Cabrera read every word as is indicated in the policy.

Member Dames stated that there were investigations done by both State Attorney's Office and the City of Miami's Auditor General's Office and both cases were closed with no significant recommendations or charges. He went on to say that the City couldn't justify her termination that way so now they're saying she didn't complete proper paperwork (regarding the Outside Employment Application).

Chair Sutton remarked that when he looks at policies and rules and regulations, there is an intent, and they are written in common language so people can understand them. He went on to say that he believes Ms. Dorsainvil was a well-liked person in the community and did a great job. He added, ultimately, the Board has to come up with a decision as to what violations occurred.

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

Miami City Code Section 2-613 – Every officer, official, or employee of the City, including every member of any board, commission, or agency of the City, is expressly prohibited from accepting, directly or indirectly, from any person, company, firm, or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money, or anything of value whatsoever except where given for the use and benefit of the City.

A motion to find Appellant NOT GUILTY was considered and resulted as follows:

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

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

Civil Service Rule 14.2 (e) – Has violated any lawful and reasonable official regulation or order, or failed to obey any lawful or reasonable direction made and given by his/her superior, where such violation or failure to obey amounts to:

- 1) An act of insubordination;
- 2) A serious breach of proper discipline; or
- 3) Resulted, or reasonably might have been expected to result, in loss or injury to the City or to the public or to the prisoners or wards of the City.

A motion to find Appellant NOT GUILTY of these three charges was considered and resulted as follows:

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

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

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 NOT GUILTY was considered and resulted as follows:

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

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

Civil Service Rule 14.2 (k) - Is incompetent, negligent, or inefficient in the performance of the duties of the position held.

A motion to find Appellant NOT GUILTY was considered and resulted as follows:

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

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

Civil Service Rule 14.2 (o) – Has been induced, has induced, or has attempted to induce an officer or employee in the service of the City of Miami to commit an unlawful act, or to act in violation of a lawful and reasonable departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his/her work or in connection with it for his/her personal use from any citizen, when said contribution is made with the hope or expectation of receiving a favor or better treatment than is accorded to other citizens.

A motion to find Appellant NOT GUILTY was considered and resulted as follows:

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

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

Civil Service Rule 14.2 (p) – Has intentionally falsified a time record or failed to report absence from duty to superiors; or if, after employment, it is found that an employee has made a false statement in the application for employment or has given false information on his/her pre-employment medical examination.

A motion to find Appellant NOT GUILTY was considered and resulted as follows:

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

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

PENALTY DISCUSSION:

Having found Appellant not guilty of all the charges, the Board recommends that Ms. Dorsainvil be reinstated to her former position as Cultural Arts Center Manager.

ADJOURNMENT:

Breaks were taken at: 11:42 AM – 11:55 AM; 1:25 PM - 2:05 PM (lunch); 2:30 PM – 2:35 PM; and 4:05 PM – 4:25 PM.

There being no further business before the Board, a motion was entered to adjourn the meeting at 6:50 PM, which resulted as follows:

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

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

SIGNATURE: _____
Troy Sutton, Board Chairperson

ATTEST: _____
Tishria L. Mindingall, Executive Secretary