

**City of Miami**

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

**Meeting Minutes**

Tuesday, March 23, 2021  
9:00 AM  
Commission Chambers

**Civil Service Board**

Troy Sutton, Chairperson  
Rafael Cabrera, Board Member  
Rodrigo Jimenez, Board Member

**Pledge of Allegiance**

The meeting was called to order at 9:15 AM, with the Pledge of Allegiance. At commencement of the meeting, attendance was as follows:

Attendee Name	Title	Status
Troy Sutton	Chairperson (At-Large)	Present
Rafael Cabrera	Board Member (At-Large)	Present
Rodrigo Jimenez	Board Member (At-Large)	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 Cabrera, seconded by Board Member Jimenez, that this matter be Approved, passed by the following vote:

**AYES:** Sutton, Cabrera, Jimenez

**A. Approving of the Minutes**

A.1 Civil Service Board - Regular Meeting – March 9, 2021 10:00 AM

A motion was entered to approve the Minutes as presented, 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, Cabrera, Jimenez

**B. Personnel Matters**

B.1 Copy of a memorandum from Juvenal Santa, Director, Public Works Department of Resilience and Public Works, requesting an extension of probationary period of Ronald Charles, Engineer I, six (6) additional months beyond April 20, 2021. (DISCUSSION)

Following appearances by the employee, the Board entered a motion to GRANT the extension as requested, which resulted as follows:

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

**AYES:** Sutton, Cabrera, Jimenez

**C. Military Leaves of Absence**

C.1 Jimmy L. Rodriguez, Police Detective, requests Active Duty Military Leave without pay from February 20, 2021 through May 20, 2021. Copy of Orders submitted. (DISCUSSION)

The Board entered a motion to APPROVE the leave as requested, which resulted as follows:

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

**AYES:** Sutton, Cabrera, Jimenez

**D. Disciplinary Matters**

NONE

**E. General Items**

- E.1 Request to Appear pursuant to Civil Service Rule 2.7, from Libby Navarrete, Attorney, who is seeking clarification from the Board regarding her request for hearing on behalf of Joel Fernandez, Ocean Rescue Lifeguard. (DISCUSSION)

Attorney Navarrete, appeared before the Board on behalf of Joel Fernandez, Ocean Rescue Lifeguard, seeking to amend her original request for hearing pursuant to Civil Service Rule 16.1, to include a preliminary investigation. She went on to explain to the Board that she is asking the Board to appoint a Chief Examiner after the Civil Service Board Elections, to conduct said investigation.

ACA Ferguson expressed no objection to the request for a preliminary investigation.

Following discussion, the Board granted a preliminary investigation on behalf of Joel Fernandez, regarding an abuse of power in making the most recent appointment to the position of Senior Ocean Rescue Lifeguard, 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, Cabrera, Jimenez

## **F. Reports**

- F.1 Hearings Pending List as of March 23, 2021. (NOTIFICATION)

## **G. Requests for Hearings**

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

- H.1 Hearing of Appeal on behalf of Xiao-Wen Michelle Choi, Principal Staff Analyst, concerning her demotion, effective November 14, 2017. Continued from the meeting of March 9, 2021.

NOTE: This hearing began October 7, 2019 and concluded March 23, 2021. In 2020, Member Jimenez became a Board member and was provided copies of all video recordings, minutes and exhibits from all meeting dates. The minutes below include the hearing in its entirety.

#### **Day 1: October 7, 2019**

The Board entered into the scheduled Appeal hearing on behalf of Xiao-Wen Michelle Choi, Principal Staff Analyst, concerning her demotion from the position of Police Budget & Finance Manager, effective November 14, 2017.

The Appellant was represented by Charles Mays, Attorney, Charles Mays, P.A. The Miami Police Department was represented by Adanna Ferguson, Assistant City Attorney and Kevin Jones, Assistant City Attorney (Supervisor), Office of the City Attorney.

The hearing began today, with presentation of the department's case in chief, and due to time constraints will be continued to a future date. The Board heard testimony from Ronald Papier, Assistant Chief, City of Miami Police Department.

#### **Day 2: December 10, 2019**

The Board continued with the scheduled Appeal hearing on behalf of Xiao-Wen Michelle Choi, Principal Staff Analyst, concerning her demotion, effective November 14, 2017. The charging document was placed in the official record.

The hearing began October 7, 2019, and continued December 10, 2019.

Adanna Ferguson, Assistant City Attorney provided opening statements. Attorney Mays provided opening statements. Exhibits were introduced and entered into evidence.

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

1. Ronald Papier, Deputy Chief, City of Miami Police Department. Questions were posed by Members Jackson, Dames and Sutton.
2. Armando Aguilar, Police Major, City of Miami Police Department. Questions were posed by Members Jackson, Dames and Sutton.

Following a break and discussion, at 2:30 PM, the matter recessed and reconvened December 11, 2019.

#### **Day 3: December 11, 2019**

The meeting reconvened December 11, 2019 at 9:30 AM, with the continuation of the scheduled Appeal hearing on behalf of Xiao-Wen Michelle Choi, Principal Staff Analyst, concerning her demotion, effective November 14, 2017.

Following discussion between the attorneys and by the Board, a motion was entered to SUSPEND the hearing, pending possible settlement.

In accordance with the Board's Continuance Policy, a settlement agreement is expected within the next 30 days, or the hearing will be rescheduled.

#### **Day 4: February 25, 2020**

Having not received a settlement agreement, the Board continued with the scheduled Appeal hearing on behalf of Xiao-Wen Michelle Choi, Principal Staff Analyst,

concerning her demotion, effective November 14, 2017.

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.

**Day 5: February 27, 2020**

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

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

1. Christopher Rose, Director, Department of Management and Budget, City of Miami. Questions were posed by Members Cabrera, Dames, and Sutton.

Due to one of the Board member's prior commitments, the meeting adjourned, and a Special Civil Service Board meeting will be scheduled.

NOTE: Due to the closing of non-essential businesses and buildings, the Board was not able to meet until August 2020, when it began virtual meetings. There were no hearings held until the ability to meet in person was issued by the Governor of Florida. During this time, the Board Members' tenure ended and three members (one of which was new) were appointed by the City Commission.

**Day 6: February 9, 2021**

Adanna Ferguson, Assistant City Attorney, appeared before the Board and reminded all that months of testimony and many exhibits had been presented up to this point. She went on to request that, in order to avoid starting over in this case, Member Jimenez be allowed to review video recordings and exhibits to bring him up to speed so that the hearing can proceed at the next Board meeting on February 23, 2021.

Charles Mays, Attorney on behalf of Ms. Choi, expressed an objection to the request. Attorney Mays went on to say that he hoped to wait until after the Board's election to proceed, since one of the previous Board members who sat for Ms. Choi's hearing, is running for re-election.

Member Cabrera opined that no one knows if the Board election will take place, nor the outcome. He recalled sitting through 4-5 days of testimony over many months and reading through evidence that was submitted. He went on to say that given member Jimenez' work background, he is confident that he can review everything and be prepared to make a fair decision.

Member Jimenez stated that he is willing to get caught up and will be able to make a fair decision concerning this matter.

Following discussion, the Board considered a motion to GRANT the department's request to have member Jimenez review proceedings and exhibits entered into evidence, which passed unanimously. The recordings and exhibits were also made available to the other Board Members.

**Day 7: February 23, 2021**

Chair Sutton advised the Board that due to unforeseen circumstances, the matter set for today will be rescheduled for March 2, 2021 (Special Meeting), beginning at 9:30 am.

**Day 8: March 2, 2021**

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

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. Given the amount of time since the last part of this hearing, both Counsel provided the Board with a summation of the testimony and exhibits.

Department then rested.

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

1. Xiao-Wen Michelle Choi, Appellant, testified on her own behalf.

Due to the lateness of the day, continuation of the hearing will be scheduled for March 9, 2021.

**Day 9: March 9, 2021**

The Board resumed the hearing of appeal on behalf of Xiao-Wen Michelle Choi, Principal Staff Analyst, concerning her demotion, effective November 14, 2017.

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

1. Continuation of testimony of Xiao-Wen Michelle Choi, Principal Staff Analyst. Questions were posed by Members Cabrera, Jimenez, and Sutton.

2. Erica Pascual-Darling, Director, Department of Finance (appeared via telephone).

Appellant rested.

Due to the lateness of the day, the Board agreed to schedule closing arguments for March 23, 2021.

**Day 10: March 23, 2021**

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

Both sides rested. Closing arguments were provided by Assistant City Attorney Ferguson and Attorney Mays.

The Board entered into review of the testimony and exhibits, and discussed whether to vote on all charges together, or to consider them independently. Chair Sutton asked Special Counsel if grouping charges was legal. Special Counsel Acosta responded that based on the Rules, the Board has the power to determine the method of conducting its hearings. Member Cabrera stated that in his view, the charges were interrelated, and the Board should vote on them together. He then asked both attorneys and the Executive Secretary for their opinions on the matter. Following discussion, the Board agreed to consider the charges independently.

Member Cabrera reminded all that whenever a new administration comes in, whether public or private [sector], one can expect changes in the staff, regardless of whether [the removed] employees are good at their jobs. He went on to opine that in this case, maybe “Peter’s Principle” was at play, where [Ms. Choi] was promoted to her level of incompetence.

Chair Sutton suggested that the selection process for both appointed and civil service positions should be reviewed and enhanced to better select individuals who can do the best job for the City, and that the process seems to have more misses than hits.

Member Jimenez stated that he has an issue with how the employee passed probation and after four years the department found her unfit for the position that she held.

Following discussion, the Board considered motions on the charges as follows:

1. Departmental Order 1, Ch. 11.6.1.2 – Members and Civilians to Know

A Motion made by Member Jimenez of NOT GUILTY died for lack of a second. A motion of GUILTY was made and resulted as follows:

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

**AYES:** Cabrera, Sutton

**NAYS:** Jimenez

2. Departmental Order 1, Ch. 11.6.13.2 – Effort and Manner of Members and Civilian

Employees. A motion of GUILTY was made and resulted as follows:

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

**AYES:** Cabrera, Sutton

**NAYS:** Jimenez

3. Departmental Order 1, Ch. 11.6.17 – Disciplinary Action – Disciplinary Actions-

General Offenses

A Motion made by Member Cabrera of GUILTY died for lack of a second. A motion of NOT GUILTY was made and resulted as follows:

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

**AYES:** Jimenez, Sutton

**NAYS:** Cabrera

4. Departmental Order 1, Ch. 11.6.17.9 – Neglect or Inattention to Duty

A motion of GUILTY was made and resulted as follows:

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

**AYES:** Cabrera, Sutton

**NAYS:** Jimenez

5. Departmental Order 1, Ch. 11.6.17.36 – Ignorance of the Contents of this Chapter of

Rules and Regulations

A motion of GUILTY was made and resulted as follows:

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

**AYES:** Cabrera, Sutton

**NAYS:** Jimenez

6. *Departmental Order 1, Ch. 11.6.18.2 – Duty Responsibilities*

A motion of GUILTY was made and resulted as follows:

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

**AYES:** Cabrera, Sutton

**NAYS:** Jimenez

7. *Departmental Order 1, Ch. 11.6.28.3 – Members and Civilians*

A Motion made by Member Cabrera of GUILTY died for lack of a second. A motion of NOT GUILTY was made and resulted as follows:

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

**AYES:** Jimenez, Sutton

**NAYS:** Cabrera

8. *Civil Service Rule 14.2(e)3 – Loss or Injury to the City*

A Motion made by Member Jimenez of NOT GUILTY died for lack of a second. A motion of GUILTY was made and resulted as follows:

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

**AYES:** Cabrera, Sutton

**NAYS:** Jimenez

9. *Civil Service Rule 14.2(k) – Incompetent, Negligent or Inefficient*

A Motion made by Member Jimenez of NOT GUILTY died for lack of a second. A motion of GUILTY was made and resulted as follows:

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

**AYES:** Cabrera, Sutton

**NAYS:** Jimenez

**PENALTY DISCUSSION**

Having ruled on the charges, the Board entered into the Penalty phase of the hearing. Witnesses appeared at the request of the department as follows:

1. Antonio Diaz, Police Major, Department of Police. Questions were posed to witness Diaz by Chair Sutton.

The department rested. No witnesses were called at the request of the Appellant. No exhibits were entered. The Board entered into deliberations regarding the recommended penalty.

A motion to recommend that the City Manager SUSTAIN the actions of the department director, was considered by the Board and resulted as follows:

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

**AYES:** Sutton, Cabrera

**NAYS:** Jimenez

H.2 Hearing Appeal on behalf of Matthew Hall, Police Officer, concerning his 40-hour suspension, effective December 3, 2019.

The Executive Secretary advised the Board that a Notice of Withdrawal was submitted by Attorney Gibbons, on behalf of Matthew Hall, Police Officer. This matter will be considered WITHDRAWN and the case will be closed.

H.3 Hearing Appeal on behalf of Shekita Johnson, Emergency Dispatcher Supervisor, concerning her 16-hour suspension, effective January 26, 2020.

Adanna Ferguson, Assistant City Attorney, advised the Board that a continuance will be needed in both matters set for today (H.3 and H.4) on behalf of Shekita Johnson, Emergency Dispatcher.

Libby Navarrete, Attorney, on behalf of Shekita Johnson, Emergency Dispatcher Supervisor, advised she had no objections to a request for continuance.

Following discussion, the Board agreed to grant a joint continuance in this matter, which resulted as follows:

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

**AYES:** Sutton, Cabrera, Jimenez

H.4 Hearing Appeal on behalf of Shekita Johnson, Emergency Dispatcher Supervisor, concerning her 32-hour suspension, effective January 28, 2020.

Refer to Item H.3

ADJOURNMENT:

There being no further business before the Board, a motion was entered to adjourn the meeting at 1:36 pm, which resulted as follows:

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

**AYES:** Sutton, Cabrera, Jimenez

**SIGNATURE: Troy Sutton, Chairperson**

**ATTEST:** Tishria L. Mindingall, Executive Secretary