

# CITY OF ALBUQUERQUE



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, June 16, 2014*

**600 2<sup>nd</sup> Street NW, 7<sup>th</sup> Floor, Albuquerque, NM 87102**

### HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter  
Susan Chappell  
Juan Montoya*

OTHERS PRESENT:

*Kevin Curran  
Rebecca Wardlaw  
Melissa Kountz  
Stevie Nichols  
Kathy Levy  
Mary Scott*

*Rocky Gutierrez  
James Montalbano  
Leland Churan  
Dynette Cordova  
Jessica Enriquez*

### MINUTES

PO Box 1293

**I. CALL TO ORDER.**

Chairman Patrick Halter called meeting to order at 9:15 a.m., all members were present.

Albuquerque

**II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JUNE 16, 2014.**

Chairman Halter made a motion to approve agenda. Juan Montoya seconded. The motion passed 3-0.

NM 87103

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR MAY 15, 2014.**

Chairman Halter made a motion to approve the minutes. Mr. Montoya seconded. The motion passed 3-0.

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**IV. PUBLIC COMMENTS \*Limited to three (3) minutes total time per person.**

Chairman Halter stated that the future Labor Board meetings dates will be scheduled for June 30, 2014; July 10, 2014; July 25, 2014; August 18, 2014; September 5, 2014 and September 26, 2014.

Melissa Kountz, Assistant City Attorney for the City and stated that the Union and the City have agreed to a Motion for Summary Judgment that will be presented at the June 30, 2014 Board meeting and a merit hearing will be scheduled for a future date.

Rocky Gutierrez appeared on behalf of AFSCME and stated that the Union does not object to the Motion for Summary Judgment.

**V. LB 10-01, REVIEW AND APPROVAL OF THE STIPULATED ORDER OF DISMISSAL. (AFSCME LOCAL 624)**

Ms. Kountz appeared on behalf of the City and Mr. Gutierrez appeared on behalf of AFSCME. They both stated that the parties have stipulated to the Dismissal.

Chairman Halter made a motion to approve the Stipulated Motion of Dismissal. Mr. Montoya seconded. Motion passed 3-0.

- VI. LB 09-25, REVIEW AND APPROVAL OF THE STIPULATED ORDER OF DISMISSAL. (AFSCME LOCAL 624)**  
Ms. Kountz appeared on behalf of the City and Mr. Gutierrez appeared on behalf of AFSCME. They both stated that the parties have stipulated to the Dismissal.
- Chairman Halter made a motion to approve the Stipulated Motion of Dismissal. Susan Chappell seconded. Motion passed 3-0.
- VII. LB 12-34, REVIEW OF CITY'S AMENDED MOTION TO DISMISS. (FRED MOWRER, IAFF)**  
Stevie Nichols, Assistant City Attorney appeared on behalf of City and presented the City's Motion to Dismiss and presented the case history. She stated that the City did not violate the collective bargaining agreement when Mr. Montano and Mr. Jaramillo held a meeting on November 8, 2012 with Adam Anaya and did not allow him representation because it was not necessary to discuss his job duties and work schedule.
- Fred Mowrer, APOA appeared on behalf of Adam Anaya and stated that the Union argued that the City violated the CBA contract when they denied Mr. Anaya his right to representation when he requested it at the November 8, 2012 meeting with his supervisors. Mr. Mowrer stated that relief has been sought to Mr., Anaya but requests that the Board issue an Order to find that an employee must be granted the right to representation when requested.
- Chairman Halter made a motion to enter closed session. Ms. Chappell seconded. Motion passed 3-0.
- Closed session concluded. Chairman Halter made a motion to deny the City's Motion to Dismiss. Mr. Montoya seconded. Motion passed 2-1.
- Case proceeded to a merits hearing, see item XII.
- VIII. LB 13-03, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL. (FRED MOWRER, APOA)**  
Ms. Nichols appeared on behalf of the City and presented the City's Motion to Dismiss the prohibited practice complaint.
- Mr., Mowrer appeared on behalf of Adam Anaya and presented the Union's argument that Mr. Anaya was assigned to the fire arm range when he returned from military leave and kept there for longer than the 45 days allowed per the CBA.
- Chairman Halter made a motion to deny the City's Motion to Dismiss. Mr. Montoya seconded. Motion passed 2-1.
- IX. LB 14-06, REVIEW OF THE STIPULATED MOTION TO DISMISS. (FRED MOWRER, IAFF LOCAL 244)**  
Mr. Mowrer appeared on behalf of IAFF and Ms. Nichols appeared on behalf of the City of Albuquerque. Parties have settled the case and the City will provide a Supplemental Order to the Board.
- X. LB 14-07, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT AND MOTION FOR DISMISSAL OR ALTERNATIVELY SUMMARY JUDGMENT. (AFSCME LOCAL 1888)**  
Rocky Gutierrez appeared on behalf of AFSCME Local 1888 and stated that Gerard Anaya was the person who filed the Complaint but he was unavailable for the meeting, therefore the Union requested a continuance to allow Mr. Anaya to appear for the case.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that the city was prepared to proceed.

Chairman Halter granted the continuance and the case will be rescheduled to June 30, 2014.

#### XI. STATUS REPORT

- **LB 14-01 COMPLAINT AGAINST THE CITY OF ALBUQUERQUE ON BEHALF OF AFSCME LOCAL 3022 FOR NON-NEGOTIATION OF THE BARGAINING UNIT FOR E AND M SERIES EMPLOYEES. (LEE WHISTLE AFSCME COUNCIL 3022)**

James Montalbano with Youtz and Valdez appeared on behalf of AFSCME Local 3022, and stated that the parties have met and continue to mediate as requested by the Board. He asked the Board to schedule case for a merit hearing in July.

Ms. Nichols appeared on behalf of the City of Albuquerque and stated that a list of disputed positions will be submitted to the Board.

Chairman Halter stated that the case will be set for status on July 10, 2014.

#### XII. MERITS HEARING

- **LB 12-26 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**

Kathy Levy, Assistant City Attorney appeared on behalf of the City. Fred Mowrer appeared on behalf of APOA. A Stipulated Motion to Continue was filed.

Chairman Halter granted the Stipulated Motion to Continue and advised parties to discuss a date to reschedule.

- **LB 12-34 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR DENYING AN OFFICER A REPRESENTATIVE DURING AN ADMINISTRATIVE INTERVIEW (FRED MOWRER, APOA)**
- **LB 13-03 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**

Merits hearing for consolidated cases LB 12-34 and LB 13-03. Fred Mowrer appeared on behalf of APOA and the grievant Adam Anaya. Mr. Anaya was sworn in and called to testify. He testified that he left his position with the City of Albuquerque on leave of absence for military deployment in October 2010 and returned to work with the City of Albuquerque September 22, 2012. Prior to leaving he was working a 4 day 10 hour shift schedule and when he returned was placed on a 5 day 8 hour work schedule, He was also not placed back to his original position as an Instructor of the Police Academy but instead placed to work at the Albuquerque Police Fire Arm Range. He stated that he was placed at the range for more than 45 days which is a violation, and after sending an email to his supervisor Mr. Montano and had not received a response in 13 days he sent an email to Mr. Wolf and also received no response, He then went up the chain of command and sent an email to the deputy Chief. A meeting was held in November 2012 with Mr. Montano, Mr. Jaramillo and Mr. Anaya and when he was told it was going to be recorded he requested representation and was denied his right by Mr. Montano. He then was told that an Internal Affairs investigation was being processed and he filed a Complaint with the Department of Labor,

Stevie Nichols appeared on behalf of the City and called to testify APD Lieutenant Anthony Montano, APD Sergeant David Jaramillo and Karen Salazar the department Payroll Coordinator. Mr. Montano stated that when the meeting was held in November 2012, an Internal Affairs investigation was already pending regarding Mr. Anaya but the meeting had

nothing to do with that investigation. He stated that he did record the meeting for his personal reasons but then Internal Affairs requested the recording from him. Mr. Jaramaillo stated that he initiated the Internal Affairs investigation when the email sent from Mr. Anaya to Deputy Chief Wolf was sent back down the chain of command to him and he was told to deal with the matter. Ms. Salazar stated that she knew Mr. Anaya because of her position with the department and that typically all positions are 5 day 8 hour works scheduled.

Chairman Halter ordered parties to submit closing arguments by Monday, June 24, 2014. He made a Motion to adjourn the meeting. All Board members were in favor. Meeting was adjourned.

- **LB 13-24 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**  
Ms. Levy and Mr. Mowrer agreed to a continuance for a merits hearing.

Chairman Halter granted a continuance.

**XIII. SCHEDULING OF PENDING CASES.**

- **LB 14-05 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE CITY COUNCIL, MAYOR RICHARD J. BERRY, ROB PERRY, DAVID TOUREK, JOHN MARTINEZ, FIRE FIGHTERS UNION IAFF AND LOCAL 244 FOR INTERFERING WITH THE COLLECTIVE BARGAINING PROCESS AND FAILING TO BARGAIN IN GOOD FAITH (PAUL LIVINGSTON, NMTU)**

Rebecca Wardlaw, Assistant City Attorney appeared on behalf of the City. There was no one present for NMTU.

Chairman Halter continued the case for June 30, 2014 for standing argument.

Chairman Halter made a motion to adjourn. All Board members were in favor. Meeting was adjourned.

**APPROVED:**

  
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**PATRICK HALTER, CHAIR**  
City Labor Board

*July 10, 2014*  
\_\_\_\_\_  
DATE

cc: Richard J. Berry, Mayor  
Trina Gurule, Acting City Clerk