



**LABOR-MANAGEMENT RELATIONS BOARD**  
***Monday, January 12, 2015***  
**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:**

*Nick Bullock*  
*Samantha Hulst*  
*Kellie Garcia*  
*Marie Legrand-Miller*  
*Melissa Kountz*  
*Olivia Padilla Jackson*  
*Jessica Enriquez*

*Rocky Gutierrez*  
*Deb Rainaldi*  
*Shane Youtz*  
*Adrian Terry*  
*Connie Derr*  
*Vernon Staton*

***MINUTES***

**I. CALL TO ORDER.**

Meeting was called to order by Chairman Patrick Halter at 9:00 a.m. All members were present.

PO Box 1293

**II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JANUARY 12, 2015.**

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

Albuquerque

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

Chairman Halter made a motion to approve the minutes for December 15, 2014. Mr. Montoya seconded. Motion passed 3-0.

New Mexico 87103

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

Chairman Halter announced that the meeting scheduled for February 16, 2015 has been rescheduled for February 23, 2015.

www.cabq.gov

**V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and stated that she spoke with Steve Griego from AFSCME and they have stipulated to the dismissal of LB 14-29. Chairman Halter made a motion to approve the dismissal of LB 14-29. Susan Chappell seconded. Motion passed 3-0.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and stated that the City and James Montalbano have agreed to reschedule LB 14-11 (consolidated with LB 13-14 and LB 12-32). Chairman Halter made a motion to approve the Motion to Vacate Hearing for January 26, 2015. Mr. Montoya seconded. Motion passed 3-0. This matter has been reset for March 30, 2015.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME. Ms. Kountz stated that the parties have agreed to vacate LB 12-22 scheduled on item X, January 12, 2015 for a merits hearing. She asked the Board to schedule this matter for status on January 26, 2015. Chairman Halter made a motion to grant the Motion to Vacate. Mr. Montoya seconded. Motion passed 3-0. This matter will be scheduled for status on January 26, 2015.

## **VI. MOTIONS AND ORDERS.**

- **LB 10-14, PROPOSED ORDER OF DISMISSAL. (ROCKY GUTIERREZ, AFSCME)**  
Samantha Hults, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME. Ms. Hults stated that the City prepared the Order of Dismissal when Mr. Jaramillo failed to appear in this matter. Mr. Gutierrez stated that he does not oppose to the Order. Chairman Halter made a motion to approve the Order of Dismissal. Ms. Chappell seconded. Motion passed 3-0.
- **LB 14-28, CITY'S MOTION FOR MORE DEFINITE STATEMENT AND MOTION TO STAY TIME LIMITS FOR DISPOSITIVE MOTIONS. (ROCKY GUTIERREZ, AFSCME)**  
Kellie Garcia, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME Local 624. Ms. Garcia stated that the City has requested a More Definite Statement because the facts and allegations in the prohibited practice complaint are vague and unspecific. Mr. Gutierrez stated that there has been no direct contact to the Union from the City and he objects to any enlarging of the time limits for filing any dispositive motions. He asked the Board to deny the City's Motion for More Definite Statement. Ms. Garcia stated that the City filed Written Motion requesting information from the Union and the Motions have been filed timely. She asked the Board to grant the City's Motion for More Definite Statement and the Motion to Stay Time Limits. Ms. Chappell made a motion to grant the City's Motion for More Definite Statement and the Motion to Stay of Time Limits. Chairman Halter seconded. Motion passed 3-0. The Motion for More Definite Statement is due by February 15, 2015 and the City will have 30 days from the date they receive the Motion to respond.
- **LB 14-24, CITY'S MOTION FOR SUMMARY JUDGMENT. (GARY ALLEN, AFSCME)**  
Ms. Garcia appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME. Ms. Garcia presented the City's Motion for Summary Judgment and stated that the Union has raised issues that were not included in the prohibited practice complaint. She stated that the Union did not respond to the City's Motion for Summary Judgment. Mr. Gutierrez stated that there are disputed facts and asked the Board to deny the City's Motion and set this matter for a hearing. Mr. Montoya moved to deny the City's Motion. Ms. Chappell made a motion to grant the City's Motion. Chairman Halter seconded Mr. Montoya's motion to deny the City's Motion for Summary Judgment. Motion passed 2-1. Chairman Halter scheduled this matter for a hearing on February 2, 2015 and directed the parties to meet prior to the hearing.

## **VII. STATUS REVIEW IN LB 06-27, LB 06-36, LB 99-08 AND LB 99-14. (AFSCME LOCALS 624, 2962, 3022)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the City in LB 06-27 and stated that in the minutes from August 7, 2007, there was a Motion to Dismiss that passed 2-1 but the Board never issued a Decision. She stated that she spoke with Casey Padilla and he does not oppose to the City's Motion to Close LB 06-27. She will draft an Order for the Board to sign.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City in LB 06-36 and stated that in the minutes from September 17, 2007 the City filed a Motion to Dismiss and the Board untimely moved to Dismiss based on standing and the Union was given 30 days to refile but never refiled. She moved to administratively close LB 06-36. Rocky Gutierrez appeared on behalf of Casey Padilla and AFSCME Local 624 and stated that they do not object to the City's Motion to Close.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME in LB 99-08. The parties agreed to a Stipulated Motion to Dismiss. Chairman Halter made a motion to approve the Stipulated Order of Dismissal in LB 99-08. Ms. Chappell seconded. Motion passed 3-0.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City in LB 99-14 and stated that the prohibited practice complaint was filed by United Transportation Union who is no longer the recognized bargaining unit for transit employees and by Paul Livingston who is no longer licensed to practice law. She stated that there was a hearing in 2001 that was vacated because the parties failed to pay the hearing fee and since then nothing has happen. She stated that Mr. Livingston was notified in early December of this agenda and did not appear. The City moved to Dismiss on the bases that the representative no longer tried to pursue and therefore is mute and UTU is no longer the bargaining representative for City Transit Employees. Chairman Halter made a motion to dismiss. Mr. Montoya seconded. Motion passed 3-0.

**VIII. REVIEW OF THE PROPOSED ORDER IN LB 08-35. (ROCKY GUTIERREZ, AFSCME)**

Samantha Hults, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME. The parties agreed to the Order and Ms. Hults will submit a clean copy to the Board for review.

**IX. REVIEW OF NMTU REQUEST FOR RECOGNITION, BRIEFS AND REPLY BRIEFS FILED BY NMTU, AFSCME AND/ OR THE CITY IN LB 14-27.**

Adrian Terry, Attorney appeared on behalf of NMTU and stated that NMTU has filed a request for recognition to be the certified exclusive bargaining unit for transit employees. He stated that NMTU followed the City Ordinance in submitting its request and AFSCME opposes the request on the bases that a request was not filed in a window of time or does not exist. His position was that the request is proper per the City Ordinances and requested a hearing. Shane Youtz appeared on behalf of AFSCME and argued that the Board has a rule to follow which is Ordinance 3-2-6J and stated that there is an injunction per a District Court Judge between AFSCME and the City to honor the collective bargaining agreement in affect. Samantha Hults, Assistant City Attorney appeared on behalf of the City and stated that all the City wants to know is who they should recognize as the representative. Ms. Chappell made a motion to deny NMTU's request for recognition. Chairman Halter seconded. Motion passed 3-0.

**X. MERITS HEARINGS.**

• **LB 11-26 STEP III GRIEVANCE ON BEHALF OF DEPARTMENT OF FINANCE EMPLOYEE CARLA NAVARRETTE, DENIED SELECTION OF THE PROMOTION PROCESS. (ROCKY GUTIERREZ, AFSCME)**

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME and Carla Navarrette. There was a long discussion and argument regarding the process and procedures of City employee witnesses being notified to appear to testify for merits hearings. Mr. Gutierrez briefed the case and stated that Ms. Navarrette applied for the position of Accountant 1 and was not selected for the position. He stated that she met all the requirements and qualifications and had fourteen years of accounting experience and twenty five years of relevant accounting g experience with the City but the position was given to an external candidate and because of that the City violated the Collective Bargaining Agreement section 20.1.2. Mr. Gutierrez called witnesses Trina McMahan, Arthur Montoya, Lou Hoffman, Deb Rainaldi, Casey Padilla, Mary Scott and Carla Navarrette.

This hearing was continued to January 26, 2015.


• **LB 12-22 STEP III GRIEVANCE ON BEHALF OF ANNETTE GOMEZ AGAINST THE CITY OF ALBUQUERQUE FAMILY AND COMMUNITY SERVICES DEPARTMENT FOR WORKING OUTSIDE OF HER CLASSIFICATION WITHOUT COMPENSATION. (ROCKY GUTIERREZ, AFSCME)**

Matter continued to January 26, 2015. See item V.

**XI. ADJOURNMENT.**

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0. Meeting was adjourned at 3:47 p.m.

**APPROVED:**

  
\_\_\_\_\_  
**PATRICK HALTER, CHAIR**  
**City Labor Board**

July 26, 2015  
**DATE**

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