

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD

Monday, January 27, 2014

600 2nd Street NW, 7th Floor, Albuquerque, NM 87102

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

<i>Doris Duhigg</i>	<i>Rocky Gutierrez</i>
<i>Samantha Hults</i>	<i>Jessica Enriquez</i>
<i>Rebecca Wardlaw</i>	<i>Fred Mowrer</i>
<i>Kathryn Levy</i>	<i>Marcus Garcia</i>
<i>Stevie Nichols</i>	<i>Diego Arencon</i>
<i>Mary Scott</i>	<i>Frank Gonzales</i>
<i>Karl Isselhard</i>	<i>Genaro Tafoya</i>
<i>Art Garcia</i>	<i>James Montalbano</i>
<i>Anita Basi</i>	

PO Box 1293

MINUTES

Albuquerque

NM 87103

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I. CALL TO ORDER.

Meeting was called to order at 9:02 am. All Board Members were present.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JANUARY 27, 2014.

Chairman Halter made a Motion to Amend Agenda to include a new item for new business for the January 27, 2014 Labor Board Meeting. Juan Montoya seconded. Passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR DECEMBER 16, 2013.

Chairman Halter made a Motion to approve minutes. Susan Chappell seconded. Passed 3-0.

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

Frank Gonzales requested case LB 10-22 be placed on the next Agenda for a hearing.

Chairman Halter stated that this matter will be placed on the Agenda for February.

Genaro Tafoya requested that he also be notified regarding LB 10-22 and that he would provide Jessica, Hearing Monitor with his email address.

V. LB 05-02, REVIEW OF CITY'S MOTION TO ADMINISTRATIVELY CLOSE.

Anita Basi, Law Clerk on behalf of the City stated that the union has agreed to drop the case.

Rocky Gutierrez, AFSCME Council 18 stated that other stipulations also went hand in hand with the agreement and that LB 11-28 was also dropped. He stated that the City agreed to allow the Union two weeks to respond to LB 11-14.

Samantha Hults, Assistant City Attorney on behalf of the City stated that there was a deal made between the parties that the Union will provide a response in two weeks so that the case could be placed on the following month's Agenda.

Chairman Halter requested that AFSCME submit a letter to withdraw LB 05-02 and LB 11-28 to close out the cases. He stated that two weeks is granted to allow the Union to respond in LB 11-14, due February 10, 2014.

VI. LB 09-33, REVIEW OF CITY'S MOTION TO DISMISS.

Mr. Gutierrez presented that there was a Stipulation by the parties at the last meeting that the Motion would not be filed and that the Complaint would be considered timely by the City.

Ms. Hults responded that the City had received new information and they will investigate the information and file an Amended Answer.

Chairman Halter stated that this matter was dealt with at the December 16, 2013 Labor Board meeting and the City had agreed to accept the Complaint as timely. Case will be scheduled for a hearing for the next month's meeting in February.

VII. LB 11-28, REVIEW OF THE CITY'S MOTION TO DISMISS PPC.

Withdrawn. See item V.

VIII. LB 10-02, REVIEW OF COMPLAINANTS' MOTION TO SET ASIDE AND VACATE ORDER AND CITY'S RESPONSE IN OPPOSITION OF COMPLAINANTS' MOTION TO SET ASIDE AND VACATE ORDER.

Marcus Garcia, Attorney for Complainants stated that an Order was granted to the City's Motion to Dismiss based on Rules of Civil Procedures 8 and 37. He stated that there is a little dispute as to whether the Rules of Civil Procedure apply. The City did not file its Answer to the PPC for over a year and did not file its Motion to Dismiss for at least two years. He stated that the Rules of Civil Procedure the City have cited do not apply in this case and that the Order should be set aside.

Chairman Halter stated that the case was set for a merits hearing on October 28, 2013 and two extensions were granted to provide time for complainants' to reply to the City's Motion to Dismiss but the complainants' never filed a reply.

Ms. Hults stated that there was an Order granted by the Board in the presence of Mr. Garcia to file a response within 30 days and he never responded and additional time was given. She stated that under Rule 8 of Rules of Civil Procedure, that by not responding to a pleading it is an admission. She stated that Mr. Garcia had adequate time to respond and asked the Board to uphold the City's Motion to Dismiss.

Ms. Chappell made a Motion to deny the Motion to set aside and vacate order.
Mr. Montoya seconded. Passed 3-0.

IX. REVIEW OF AMENDED COMPLAINT IN LB 11-21, CITY'S RESPONSE TO AMENDED COMPLAINT AND CITY'S MOTION FOR SUMMARY JUDGMENT.

Stevie Nichols, Assistant City Attorney of behalf of the City stated that the complaint was filed August 2011 involving David Ortiz and Shawn Sanchez, alleging that the City did not hire the most qualified person per the merits system ordinance. The City then filed a Motion in September 2013 and the Union filed an Amended Complaint in December 2013. Ms. Nichols explained the scoring factors used per the collective bargaining agreement when

qualifying an individual for hire. She stated that the City did not violate neither the CBA nor the LMRO as alleged in the complaint.

Mr. Gutierrez, AFSCME Local 624 stated that all three employees were prequalified and that Mr. Sanchez should have received the promotion. He asked the Board not to grant the Motion and requested a hearing be scheduled.

Mr. Montoya stated that this is a Motion for Summary Judgment.

Ms. Nichols gave a brief explanation of the four factors used and stated that the facts are undisputed.

Chairman Halter made a Motion to deny the City's Motion. Mr. Montoya seconded. Passed 3-0.

X. LB 12-04, REVIEW OF RESPONDENT'S MOTION FOR SUMMARY JUDGMENT AND DISMISSAL OF PPC TO INCLUDE NOTICE OF ERRATA.

Ms. Hulst stated that the PPC states that the City has violated confidentiality by releasing information to the press. She stated that the City has to release public information under the IPRA per the Attorney General's Office. She stated that the Board does not have jurisdiction under IPRA and this is the incorrect venue. She requested the Board deny the PPC.

Fred Mowrer referred to Ordinance 3-2-4 and 3-2-5 and stated that there was no redaction or screening when documents were released as required. He stated that the Board does have jurisdiction to hear the case and should be handled by the Board.

Ms. Hulst stated that State law interpretation belongs in a State court and asked the Board to grant the City's Motion.

Mr. Montoya made a Motion to deny the Motion and proceed with a hearing. No second.

Chairman Halter made a Motion to go into executive session. Mr. Montoya seconded. Passed 3-0.

Executive session concluded. Chairman Halter made a Motion to return to open session. Mr. Montoya seconded. Passed 3-0.

Ms. Chappell made a Motion to grant the City's Motion to Dismiss. No second.

Chairman Halter made a Motion to deny the City's Motion to Dismiss and set the PPC for a hearing. Mr. Montoya seconded. Passed 2-1.

XI. LB 13-22, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL AND REVIEW OF RESPONSE TO AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL.

Mr. Mowrer on behalf of IAFF 244 stated that the parties have agreed to vacate and set the case for a hearing.

Chairman Halter made a Motion to vacate and reset case for a subsequent meeting. Mr. Montoya seconded. Passed 3-0.

XII. LB 11-14, REVIEW OF CITY'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT OF PROHIBITED PRACTICE CHARGE.

See item V.

XIII. SCHEDULING OF CASES FOR HEARING IN LB 10-23, LB 11-44, LB 12-26, LB 12-34, LB 13-11, LB, 13-12, LB 13-23, LB 12-31, LB 13-19 AND LB 13-24.

Cases LB 11-14, LB 10-22 and LB 09-33 will be on the next month's agenda. Next meeting will be scheduled for February 19, 2014.

XIV. NEW BUSINESS.

Doris Duhigg, Assistant City Attorney introduced Ira Bolnick who is interested in taking over Chairman.

Ira Bolnick gave a brief introduction and answered any questions.

Next agenda will include consideration of Ira Bolnick for Chairman.

Chairman Halter stated that all other pending cases under item XIII should be heard by the new Board.

XV. ADJOURNMENT.

Chairman Halter made a Motion to adjourn. Ms. Chappell seconded. Passed 3-0.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board



DATE

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