

CITY OF ALBUQUERQUE



CITY OF ALBUQUERQUE PERSONNEL BOARD

**T. ZANE REEVES, VICE-CHAIRMAN
CHRISTOPHER HOLLAND
MARIE JULIENNE
JAMES PENDERGAST**

**WEDNESDAY, JANUARY 11, 2017
2:30 P.M.**

600 2ND STREET NW, 7TH FLOOR, ALBUQUERQUE, NM 87102

MEMBERS PRESENT:

*T. Zane Reeves-Vice-Chairman
Christopher Holland
Marie Julienne
James Pendergast*

OTHERS PRESENT:

<i>Samantha Hults</i>	<i>Melissa Kountz</i>
<i>Ryan Botel</i>	<i>Thomas Grover</i>
<i>Philomena Hausler</i>	<i>Hess Yntema</i>
<i>Ian Stoker</i>	<i>Michael Cadigan</i>
<i>Diane Kimberle</i>	<i>Miguel Tavaréz</i>
<i>Jeremy Dear</i>	<i>John Dear</i>
<i>Angelique Dear</i>	<i>Audeliz Nieves</i>

PO Box 1293

Minutes

- Albuquerque I. **CALL TO ORDER.**
Meeting was called to order at 2:30 p.m., by Vice-Chairman T. Zane Reeves. Members Marie Julienne, Christopher Holland and James Pendergast were present.
- New Mexico 87103 **REVIEW AND APPROVAL OF PERSONNEL BOARD AGENDA FOR WEDNESDAY, JANUARY 11, 2016.**
Vice-Chairman Reeves motions to approve. Mr. Pendergast moves to approve. Mr. Holland seconded. Passed 4-0
- www.cabq.gov III. **REVIEW AND APPROVAL OF PERSONNEL BOARD MINUTES FOR WEDNESDAY, DECEMBER 14, 2016.**
Mr. Holland moves to approve. Mr. Pendergast seconded. Passed 4-0
- IV. **PB-13-21 AUDELIZ NIEVES, TERMINATION-CITY OF ALBUQUERQUE POLICE DEPARTMENT. RECOMMENDATION OF THE OFFICER, RITA SIEGEL.**
Samantha Hults, Assistant City Attorney for the City, States that parties have tried to come to an agreement and were unable to do so. The Hearing Officers recommendation was correct the parties came to a settlement agreement prior to the hearing on this matter, the city believes it has executed the agreement as parties came to reach. Had a hearing on this matter and the hearing officer agreed that there was no jurisdiction on the ability to resend that settlement. between the parties. Having a new hearing wouldn't be the remedy

Thomas Grover, Attorney for the Grievant Audeliz Nieves, States that the Personnel Board still has jurisdiction over this matter his appeal was timely no final order was issued by the Personnel Board. There was a failure by the City to abide by the terms of an unwritten settlement agreement. Asks for a full merits hearing on his termination.

V. *PB-14-24 JEREMY DEAR-TERMINATION-CITY OF ALBUQUERQUE POLICE DEPARTMENT. DISCUSSION ON REMAND, SENT BACK TO THE PERSONNEL BOARD FROM DISTRICT COURT.*

Samantha Hulst, Assistant City Attorney for the City, states that the board still has to function, it doesn't take away the power to move forward to make a decision. The court is asking this board to clarify its decision. If the board can't clarify then it would be deadlocked and would be sent back to the judge

Thomas Grover, Attorney for the Grievant Jeremy Dear, states that the order issued by Judge Campbell does not call for a revote, it calls for the board to clarify the legal and factual basis of that decision. The decision was made by five members not four. Not sure what the remedy for the changes are. You have to respond on what the judge is asking for.

VI. *PB-16-10 MIGUEL TAVAREZ, TERMINATION-CITY OF ALBUQUERQUE ANIMAL WELFARE DEPARTMENT. RECOMMENDATION OF THE HEARING OFFICER JUDITH DURZO.*

Ian Stoker, Assistant City Attorney for the City, Mr. Tavarez was an Animal Control Officer and in that capacity his duties included enforcement of animal care and the keep of laws. He also held the rank of corporal and trained other officers. When Mr. Tavarez was found to have violated or to have been non-compliance with the Bernalillo County Animal Control Ordinance, it raised serious questions about Tavarez's ability to perform his duties to continue being an educator and an enforcer of these laws that he seemed to have violated. Both of the investigations by Bernalillo County and the City Hearing Officer have reached the same conclusion, that Tavarez knew better and violated the laws or didn't know better at which he should have as an Animal Control Officer. Hearing Officer Durzo stated that instead of termination a 90 day suspension be imposed. The City agrees that nothing less than a 90 day suspension would address Mr. Tavarez's misconduct, but the nature of his misconduct justifies termination rather than the 90 day suspension.

Michael Cadigan, Attorney for the Grievant, Tavarez had a long and excellent history with the City until he began to report what he saw as unethical and illegal activities by the Director of the Animal Welfare Department. The City stated that his termination was justified. In the beginning the City said Tavarez was terminated because he committed fraud against the City and conspired with another employee to readopt a dog. The fact of the matter the City conducted the investigation and found there was evidence to support that it was fraud. Hearing Officer Durzo also concluded there was no fraud.

VII. *RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISSMALS AND SETTLEMENTS.*

VIII. *VOTE TO CLOSE THE MEETING PURSUANT TO SECTION 10-15-1(H)(2) (LIMITED PERSONNEL MATTERS) AND 10-15-1(H)(7) (THREATENED OR PENDING LITIGATION) OF THE NM OPEN MEETINGS ACT.*

Vice-Chairman Reeves moves to close the meeting. Mr. Holland seconded.
Passed 4-0

Only matters discussed in closed session where matters:

PB-13-21
PB-14-24
PB-16-10

Vice-Chairman Reeves moves to open the meeting. Mr. Holland seconded.
Passed 4-0

PB-13-21 Audeliz Nieves, Mr. Pendergast moves to accept the Hearing Officers
Recommendation. Ms. Julianne seconded.
Passed 3-1 Mr. Reeves opposed

PB-14-24 Jeremy Dear, Mr. Holland motions to instruct the Board's Attorney to file a motion
the court case D-202-CV-2015-09284 to request an additional 90 days for the board to comply
with the court's order of November 29, 2016. Mr. Pendergast seconded.
Passed 4-0

PB-16-10 Miguel Tavaréz, Mr. Pendergast moves to accept the recommendation of the
hearing officer. Mr. Holland seconded.
Passed 4-0

IX. VACANCIES AND ORGANIZATIONAL MATTERS
None

X. PUBLIC COMMENTS.
None

XI. OTHER MATTERS.

XII. ADJOURNMENT.
Meeting adjourned at 4:21p.m

APPROVED:



VICE CHAIR (T. Zane Reeves)
City Personnel Board

DATE

cc: *Richard J. Berry, Mayor*
Natalie Y. Howard, City Clerk