

CITY OF ALBUQUERQUE



CITY OF ALBUQUERQUE PERSONNEL BOARD

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

**WEDNESDAY, DECEMBER 14, 2016
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>Nick Bullock</i>	<i>Kellie Garcia</i>
<i>Philomena Hausler</i>	<i>Ray Twohig</i>
<i>Ian Stoker</i>	<i>Mary Scott</i>
<i>Victor Lovato</i>	<i>Rocky Gutierrez</i>
<i>David Lovato</i>	<i>Greg Montoya</i>
<i>David Sanchez</i>	<i>Jorja Armijo-Brasher</i>
<i>Leann Van Amburg</i>	<i>Anthony Romero</i>
<i>Diane Kimberle</i>	<i>Donna Gonzales</i>
<i>Hess Yntema</i>	

PO Box 1293

Albuquerque

Minutes

New Mexico 87103

www.cabq.gov

- 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.
- II. REVIEW AND APPROVAL OF PERSONNEL BOARD AGENDA FOR WEDNESDAY, DECEMBER 14, 2016.**
Mr. Holland moves to approve the agenda for December 14, 2016. Ms. Julienne, seconded. Agenda approved.
Passed 4-0.
- III. REVIEW AND APPROVAL OF PERSONNEL BOARD MINUTES FOR WEDNESDAY, AUGUST 10, 2016.**
Vice-Chairman Reeves, moves to approve the minutes for August 10, 2016. Mr. Holland, seconded.
Passed 4-0
- IV. REVIEW AND APPROVAL OF PERSONNEL BOARD MINUTES FOR WEDNESDAY, NOVEMBER 9, 2016.**

Vice-Chairman Reeves, moves to approve the minutes for November 9, 2016. Mr. Holland, seconded.
Passed 4-0

- V. ***INTRODUCTION OF NEW PERSONNEL BOARD MEMBER JAMES PENDERGAST.***
Vice-Chairman Reeves introduced Mr. Pendergast as a new member.
Passed 3-0

- VI. ***PRESENTATION AND ACTION OF PROPOSED OPEN MEETINGS ACT RESOLUTION.***
Hess Yntema, Assistant City Attorney for the City of Albuquerque, presented the open meetings act resolution. He stated that it is the same resolution that was presented and passed the prior year, but updated.

Mr. Holland moves to approve. Mr. Pendergast seconded.
Passed 4-0

- VII. ***PB-16-08 GREG MONTOYA, (51) HOUR SUSPENSION -CITY OF ALBUQUERQUE TRANSIT DEPARTMENT. FINAL ORDER RECOMMENDING DISMISSAL OF THE OFFICER WILLARD H. DAVIS.***
Philomena Hausler, Assistant City Attorney for the City of Albuquerque. Ms. Hausler stated this is straight forward. There was a lengthy hearing on jurisdiction. The parties disputed whether there was jurisdiction or not. During the hearing, Hearing Officer offered to allow Mr. Montoya to amend his complaint to correct his jurisdictional defect. Cited the reasons why it would be improper. Mr. Montoya responded that he was not going to amend the complaint. The Hearing Officer concluded that the issue was moot and was no jurisdiction. Ask's the Board to adopt the Hearing Officers findings.

David Lovato Representative for Mr. Greg Montoya, stated that it was filed within the ten days and the order to dismiss was grounds for jurisdiction stated that and appeal was filed under contract grievance procedures which were not filed. The three reasons that were cited are under the disciplinary actions which are allowed under section 25.12 and also section 25.16. feels like the three sections that were cited is very relevant and would like the due process hearing. Also would like for Mr. Montoya to be compensated for his time lost. If a hearing is allowed would like another hearing officer to hear this matter.

- VIII. ***PB-15-19 DAVID SANCHEZ-TERMINATION-CITY OF ALBUQUERQUE PARKS AND RECREATION DEPARTMENT. RECOMMENDATION OF THE HEARING OFFICER, RITA SIEGEL.***

Ian Stoker, Assistant City Attorney for the City of Albuquerque, Mr. Stoker stated that the facts are pretty simple. Mr. Sanchez and Mr. Short had an argument on Short calling in sick. Later that day Mr. Short went to work at the trap & skeet range. Mr. Sanchez needed to collect a P'30 from Mr. Short, so he drove to the trap & skeet range to collect the P'30. Mr. Short and Mr. Serna described Mr. Sanchez's driving as intimidating, threatening and potentially dangerous. The basic issues in front of the board is as the City sees it is that the Hearing Officer has issued recommendations following the hearing that the City met its burden of proof and there was just cause to discipline as a result of work place violence behavior. Hearing Officer disagreed with the City on termination and recommended that Sanchez be reinstated to a non-supervisory position and issued a 90 day suspension. The City disagrees, but agreed with the Hearing Officer to the extent that she found just cause. The City asks the Board to uphold the Hearing Officers recommendation for just cause.

Ray Twohig, Attorney for the grievant David Sanchez, Mr. Twohig states that Mr. Sanchez

never had disciplinary actions on him. The record reflects that Mr. Sanchez and Mr. Short had to go to mediation, to try to resolve their differences. Mr. Sanchez asked for a transfer and also asked that Mr. Short be transferred. This was an event that Mr. Sanchez wanted to go very well at the shooting range. Mr. Sanchez told all employees there will be no time off for this event. Mr. Short wanted time off for that event and it became a conflict. Asked the Board to reinstate Mr. Sanchez to the position he was in.

IX. *PB-16-06, RUBEN ARGUELLO-TERMINATION-CITY OF ALBUQUERQUE DEPARTMENT OF SENIOR AFFAIRS. RECOMMENDATION OF THE HEARING OFFICER, BARBARA ALBIN.*

Philomena Hausler, Assistant City Attorney for the City of Albuquerque, Stated that Mr. Arguello was terminated by the department of Senior Affairs. Received a letter of instruction for using racially offensive language in the work place. Mr. Arguello admitted that he did say Ni**er lover. According to both supervisors Mr. Arguello continued to use the word. Mr. Arguello's immediate supervisor told him to stop using that word and Mr. Arguello did. He worked for the City for 17 years and within his time he accumulated a lengthy disciplinary history with the key thing being insubordination and incorporative behavior.

Rocky Gutierrez, Union Representative for the grievant Ruben Arguello, Mr. Gutierrez disagrees with the City on how the meeting took place. The context of the word that was stated in the meeting was the same context it was stated in the hearing. There was no just cause to discipline Mr. Arguello. Just because he said the word don't mean he's in violation of City's Policies. The City conducted no investigation into the claims on the December email from Mr. Espinda and the present matter. The City did not do an investigation into the allegations made by Mr. Nunez. Because there was no investigation, the pre-determination hearing officer believed and concluded that Mr. Arguello had used the N word three times after he was told not to say it. If the City had conducted an investigation they would have learned from Ms. Montoya that this was not true. Mr. Gutierrez asks the Board to reinstate with back pay and benefits.

X. *RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISSMALS AND SETTLEMENTS.*
PB-16-12 Elizabeth Lucero-Department of Municipal Development-10 Day Suspension
Order Granting City's Unopposed Motion to Dismiss
Mr. Pendergast moves to approve. Mr. Holland seconded
Passed 4-0

XI. *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-16-08 Greg Montoya
PB-15-19 David Sanchez
PB-16-06 Ruben Arguello

Mr. Holland moves to open the meeting. Mr. Pendergast seconded. Passed 4-0

PB-16-08 Greg Montoya, Vice-Chairman Reeves entertains a motion. Ms. Julinne moves to accept the Hearing Officers Recommendation. Mr. Holland seconded.

Passed 4-0

PB-15-19 David Sanchez, Vice-Chairman Reeves entertains a motion. Mr. Holland moves that the board adopt the recommendation in part, and that the board accept the Hearing Officers recommendation to the extent that the Hearing Officer recommends reinstatement of Mr. Sanchez and 90 day suspension w/out pay. Also to the extent that the Hearing Officer recommends to a non-supervisory position. Moves that the Board remand the matter back to the Hearing Officer to make two determinations and recommendations: one factual and one legal also that the Hearing Officer make a recommendation and determination on weather a non-supervisory position is available and also if the Board has legal authority to order re-assignment of Mr. Sanchez to such a position.

Passed 4-0

PB-16-06 Ruben Arguello, Mr. Pendergast moves to accept the Hearing Officers Recommendation. Mr. Holland seconded.

Passed 4-0

XII. VACANCIES AND ORGANIZATIONAL MATTERS

None

XIII. PUBLIC COMMENTS.

None

XIV. OTHER MATTERS.

Assistant City Attorney Hess Yntema, put on the record discussion of Jeremy Dear

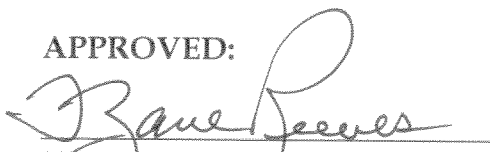
XV. ADJOURNMENT.

Vice-Chairman Reeves moves to adjourn. Mr. Holland, so moves Mr. Pendergast seconded.

Meeting was adjourned at 4:53p.m

Passed 4-0

APPROVED:


VICE CHAIR (T. Zane Reeves)
City Personnel Board

1/12/17
DATE

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