

CITY OF ALBUQUERQUE



CITY OF ALBUQUERQUE PERSONNEL BOARD

**K. LEE PEIFER, CHAIRMAN
CHRISTOPHER HOLLAND
THOMAS MANNING
MARIE JULIENNE
T. ZANE REEVES**

WEDNESDAY, AUGUST 10, 2016
2:30 P.M.

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

MEMBERS PRESENT:

*K. Lee Peifer-Chairman
Thomas Manning
Christopher Holland
Marie Julienne
T. Zane Reeves*

OTHERS PRESENT:

*Toni Cordova
Nick Bullock
Philomena Hausler
Ian Stoker
Victor Lovato
Melissa Kountz
Kellie Garcia
Paul Kennedy
Bill Tryon*

PO Box 1293

Minutes

- Albuquerque I. **CALL TO ORDER.**
Meeting was called to order at 2:30 p.m., by Chairman K. Lee Peifer. Members Thomas Manning, Marie Julienne, Christopher Holland and T. Zane Reeves were present.
- New Mexico 87102 II. **REVIEW AND APPROVAL OF PERSONNEL BOARD AGENDA FOR WEDNESDAY, AUGUST 10, 2016.**
Chairman Peifer moved to approve the amended agenda for August 10, 2016. Mr. Manning, seconded.
Agenda approved. Passed 5-0.
- www.cabq.gov III. **REVIEW AND APPROVAL OF PERSONNEL BOARD MINUTES FOR WEDNESDAY, JUNE 8, 2016.**
Chairman Peifer, moves to approve the minutes for June 8, 2016. Mr. Holland, seconded. With the corrections of spelling on the 2nd page judgment is misspelled.
Passed 5-0
- IV. **PB-13-15 YOKI MAURX, TERMINATION-CITY OF ALBUQUERQUE POLICE DEPARTMENT. RECOMMENDATION OF THE HEARING OFFICER PATRICK BINGHAM.**
Kellie Garcia, Assistant City Attorney for the City of Albuquerque. Ms. Garcia, stated that the Mr. Maurx, dragged a hand cuffed and ankle cuffed prisoner at PTC. Dragging him through some doors where Mr. Maurx hit the prisoners his head on the door moving it 4 to 5 inches.

PTC workers are not sworn officers. There is not a prescribed list of what you can and can't compare. The hearing officer reviewed the tapes the first time deciding the case. As Mr. D'Amato mentioned the hearing was convened. Hearing Officer Bingham, Mr. D'Amato and Ms. Garcia reviewed the tapes again for the second time. It was an exhaustive review of the best factual indicator of what happened.

John D'Amato, Attorney for Grievant Yoki Maurx. Mr. D'Amato, First determination found just cause for the termination. District court did not make a ruling on the first petition for writ but did remand it back for further inquiry as to the starting packed issue only. A series of stipulations was submitted to the hearing officer. The hearing officer then set a time a date to review videos, than rendered his findings.

V. ***PB-15-08 RAMONA ANDRADE-MIRANDA, DEMOTION -CITY OF ALBUQUERQUE PLANNING DEPARTMENT. FINDINGS OF FACT, PROPOSED CONCLUSION OF LAW, AND RECOMMENDED DECISION, HEARING OFFICER WILLARD H. DAVIS.***

Philomena Hausler, Assistant City Attorney for the City of Albuquerque. Ms. Hausler stated that she assumed that the members had read the written exceptions. There is more than enough evidence in terms of her unwillingness to produce phone records that is very uncooperative; the poor advice Ms. Andrade gave Ms. Stover that's incompetent. Not turning stuff in admittedly, sitting on a medical record and not going directly to her supervisor with critical information about this guy's incarceration. More than enough to satisfy a number of standards of conduct which were alleged to be violated.

Paul Kennedy, Attorney for grievant Ramona Andrade-Miranda, Mr. Kennedy urges the board to sustain the findings and conclusions and recommended decision of the hearing officer. This was in favor of the employee who should be reinstated. The City failed to call any important player in the so called conspiracy. Mr. Kennedy asks the board to sustain the findings.

VI. ***PB-16-04 and PB-16-05 (CONSILIDATED) TONI CORDOVA-DEMOTION AND 10 DAY SUSPENSION-CITY OF ALBUQUERQUE DEPARTMENT OF FINANCE AND ADMIINSTATIVE SERVICES. RECOMMENDATION OF THE HEARING OFFICER, PATRICK BINGHAM.***

Melissa Kountz, Assistant City Attorney for the City of Albuquerque, The hearing officer requested closing briefs. Mr. Bingham gave a deadline for briefs. Ms. Cordova submitted a closing brief which contained new evidence and exhibits which was not submitted at the hearing. Did object to those and moved to strike as improper. The issue was in Ms. Cordova's performance. Cordova was a service writer, promoted to a higher position M-13. Apparent that Ms. Cordova was having trouble paying invoices. Performance guide given to Cordova. Her performance didn't improve. Given a 10 day suspension and then demoted due to performance.

Bill Tryon, Attorney for the grievant Toni Cordova, Mr. Tryon just handed the City Attorney a response to the Findings of Fact and Conclusions of Law. Mr. Tryon asks the board to make Findings of Fact, Conclusions of Law part of the record. Also asks the board to consider a remand based on the document he just handed the City. Ms. Cordova was given a 10 day suspension and a demotion she's been punished twice.

VII. ***PB-13-21 AUDELIZ NIEVES-TERMINATION-CITY OF ALBUQUERQUE POLICE DEPARTMENT. RECOMMENDATION OF THE HEARING OFFICER, RITA SIEGEL.***

Melissa Kountz, Assistant City Attorney for the City of Albuquerque, oral agreements are

just as enforceable as written ones. Also applies to settlements. The hearing officer ruled this board does not have jurisdiction once a settlement has been reached. It wasn't unusual for a matter to be settled and no closing documents be sent to the board. The matter was set for a hearing before it went to hearing the hearing officer was notified that the parties reached a settlement and now the grievant now wants a hearing. What jurisdiction does the board obtain after a settlement had been reached.

Thomas Grover, Attorney for the grievant Audeliz Nieves, the issue is if the board has jurisdiction to adjudicate an alleged breach of contract of a settlement agreement entered into by Mr. Nieves. The board still had jurisdiction over Mr. Nieves petition to turn over challenge his discipline that was headed down a path for his employment with the City of Albuquerque. An informal agreement was reached between Mr. Nieves and the City that he would resign and the City would remove all references to termination in his file from the police department. He carried his side of the agreement and resigned. The City didn't satisfy it's part of the deal. Would ask the board to reject the hearing officers recommendation.

VIII. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.

PB-16-09 Michael Smith-Transit Department-51 Hour Suspension

Stipulated Order of Dismissal

Chair moves approval. Ms. Julienne seconded

Passed 5-0

PB-16-11 Jared Chavez APD- Termination

Order

Chair moves approval. Ms. Julienne seconded

Passed 5-0

IX. 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.

Chairman Peifer moves to close the meeting. Mr. Manning seconded. Passed 5-0

Only matters discussed in closed session where matters:

PB-13-15

PB-15-08

PB-16-04 PB-16-05

PB-13-21

Chairman Peifer moves to open the meeting. Mr. Holland seconded. Passed 5-0

PB-13-15 Yoki Maurx, Chairman Peifer entertains a motion. Mr. Manning moves to uphold the hearing officers recommendation to sustain the termination. Mr. Reeves seconded. Passed 4-1 Ms. Julienne opposed.

PB-15-08 Ramona Andrade-Miranda, Chairman Peifer entertains a motion. Mr. Holland moves to accept the recommendation of the hearing officer. Passed 5-0

PB-16-04, PB 16-05 Toni Cordova, Chair moves that accept the recommendation of the hearing officer and deny the appellants request to submit post hearing pleading and new evidence directly to the Personnel Board. Mr. Manning seconded.
Passed 5-0

PB-13-21 Audeliz Nieves, Chair moves to defer this matter until either an order of dismissal based on a settlement being reached from the hearing officer or one of the parties request that it be placed back on the agenda. Mr. Holland second.
Passed 4-1 Mr. Manning opposed

X. VACANCIES AND ORGANIZATIONAL MATTERS

None

XI. PUBLIC COMMENTS.

None

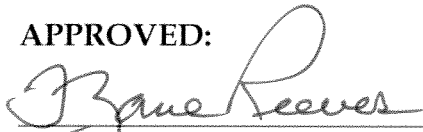
XII. OTHER MATTERS.

None

XIII. ADJOURNMENT.

Chairman Peifer moves to adjourn. Mr. Holland, seconded.
Meeting was adjourned at 5:27p.m
Passed 5-0

APPROVED:



VICE CHAIR (T. Zane Reeves)
City Personnel Board

12/14/16
DATE

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