

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD

Thursday, July 10, 2014

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

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Doris Duhigg
Rebecca Wardlaw
Melissa Kountz
Stevie Nichols
Samantha Hults
Fred Mowrer*

*Rocky Gutierrez
James Montalbano
Tasha Smalls
Jessica Enriquez*

MINUTES

PO Box 1293

I. CALL TO ORDER.

Chairman Patrick Halter called meeting to order at 1:05 p.m., all members were present.

Albuquerque

II. REVIEW AND APPROVAL OF AGENDA FOR THURSDAY, JULY 10, 2014.

Chairman Halter made a motion to approve agenda. Susan Chappell seconded. The motion passed 3-0.

NM 87103

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JUNE 16, 2014.

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

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

James Montalbano appeared on behalf of AFSCME Local 3022 and asked that LB 14-01 be put on the agenda for August.

Samantha Hults, Assistant City Attorney for the City of Albuquerque asked if LB 11-13 will be scheduled for a merits hearing on August 18, 2014.

Chairman Halter stated that LB 14-01 and LB 11-13 will be on the agenda for August 18, 2014.

Stevie Nichols, Assistant City Attorney for the City of Albuquerque presented a Stipulation Motion to Dismiss in LB 14-06.

Doris Duhigg, Assistant City Attorney for the Labor Board stated that the Board could not sign the Stipulated Order to Dismiss because the item was not listed on the agenda.

Chairman Halter stated that the Stipulated Motion to Dismiss and Order of Dismissal in LB 14-06 will be put on the agenda for July 25, 2014.

V. LB 14-10, REVIEW OF CITY'S MOTION FOR A MORE DEFINITE STATEMENT. (AFSCME LOCAL 624)

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and presented the City's Motion for a More Definite Statement and requested that the union provide clarification of the allegations listed in there Prohibited Practice Complaint.

Rocky Gutierrez appeared on behalf of AFSCME Local 624 and stated that the union understands the City's request and he will file a more definite statement by August 15, 2014.

VI. LB 14-07, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL OR ALTERNATIVELY SUMMARY JUDGMENT. (AFSCME LOCAL 1888)

Rocky Gutierrez appeared on behalf of AFSCME Local 1888 and stated that the Complaint was filed by Gerard Anaya and Mr. Anaya could not be present for the meeting due to an on the job injury. He requested one more continuance.

Samantha Hults, Assistant City Attorney appeared on behalf of the City and objected to the Union's request to continue.

Chairman Halter granted the Union's continuance and the case will be rescheduled for July 25, 2014.

VII. LB 10-17, REVIEW OF CITY'S MOTION TO DISMISS. (AFSCME LOCAL 624)

Ms. Kountz presented the City's Motion to Dismiss stating that the grievant has since then retired.

Mr. Gutierrez on behalf of AFSCME Local 624, stated that just because the grievant has retired it does not excuse the harm that was done and case should go forward.

Chairman Halter requested a written response from the union that is due within a week.

Ms. Kountz stated that the City will file a written reply to the union's response.

VIII. LB 11-11, MOTION REVIEW FOR SUMMARY JUDGMENT. (AFSCME LOCAL 624)

Ms. Kountz appeared on behalf of the City and handed out notebooks to the Board members and Mr. Gutierrez. Ms. Kountz stated that there are two types of drivers in the Solid Waste Department, residential and commercial. She explained the grades of the drivers and stated that the drivers are certified and usually cross trained. She stated that the City has the right to create new positions and explained the City's process for creating a new position. She stated that wages were negotiated with the union and asked Board to dismiss the complaint.

There was discussion regarding the District Court proceeding regarding AFSCME and City of Albuquerque. Ms. Kountz stated that the District Court complaint was filed improperly and should have been filed to the Labor Board. Rebecca Wardlaw, Assistant City Attorney stated that a District Court Complaint was filed but the Board has requested a priority list from the union and the union has not provided one. She stated that the union requests several continuances when their cases are scheduled and they should be ready to proceed when their complaint is filed. Mr. Gutierrez appeared on behalf of AFSCME Local 624 and stated that the union did not file the complaint in District Court, the employees filed it then the judge suggested they join together to resolve.

Mr. Gutierrez requested that the City meet with the union to discuss negotiations.

Chairman Halter requested a written response from the union due by August 5, 2014 and case will be heard on August 18, 2014.

IX. BOARD REVIEW OF THE RECORD IN LB 12-34 AND LB 13-03. (FRED MOWRER, APOA)

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

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

Chairman Halter made a Motion in LB 12-34 that Mr. Anaya right to representation should have been granted when he requested it but instead it was denied. Motion in LB 13-03 that Mr. Anaya was left at the range for longer than the 45 days allowed. He ordered that the City comply with the collective bargaining agreement. Mr. Montoya seconded. Motions passed 3-0.

X. ORAL ARGUMENT ON STANDING

- **LB 14-05 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE CITY COUNCIL, MAYOR RICHARD J. BERRY, ROB PERRY, DAVID TOUREK, JOHN MARTINEZ, FIRE FIGHTERS UNION IAFF AND LOCAL 244 FOR INTERFERING WITH THE COLLECTIVE BARGAINING PROCESS AND FAILING TO BARGAIN IN GOOD FAITH. (PAUL LIVINGSTON, NMTU)**

Ms. Wardlaw appeared on behalf of the City and that the Prohibited Practice Complaint should be dismissed for lack of standing and failure to prosecute because the defendant was not present. She stated that New Mexico Transportation Union is not a certified bargaining union for employees at the present time or when the PPC was filed.

Fred Mowrer on behalf of IAFF stated that he agrees with the City's Motion to Dismiss for lack of standing. He also stated that the Board does not have jurisdiction to hear this case. He referred to a ruling of dismissal by Judge Nash from May 2012 that involved the exact same issues. He stated that AFSCME is the collective bargaining unit for transit department and moves to dismiss for lack of standing and jurisdiction.

Chairman Halter made a motion to grant the City's Motion to Dismiss. Mr. Montoya seconded. Motion passed 3-0.

Mr. Mowrer will submit an Order to the Board.

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Passed 3-0.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

7.25.14
DATE

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