

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD *Monday, December 15, 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
Nicholas Bullock
Kellie Garcia
Samantha Hults
Melissa Kountz
Pat Mezzancello
Jessica Enriquez*

*Tasha Smalls
Vanessa King
Denise Enriquez
Brittany Lopez
Kathryn Levy
Fred Mowrer*

MINUTES

PO Box 1293

I. CALL TO ORDER.

Chairman Patrick Halter called the meeting to order at 9:00 a.m. All members were present.

Albuquerque

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, DECEMBER 15, 2014.

Chairman Halter made a motion to approve the agenda for December 15, 2014. Juan Montoya seconded. Motion passed 3-0.

New Mexico 87103

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR DECEMBER 1, 2014.

Chairman Halter made a motion to approve the minutes for December 1, 2014. Mr. Montoya seconded. Motion passed 3-0.

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

No public comments.

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

Samantha Hults, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. Parties stated that they have agreed to dismiss LB 14-22 and submitted a Stipulated Order to Dismiss. Chairman Halter made a motion to approve the Order of Dismissal. Susan Chappell seconded. Motion passed 3-0 and the Order was signed by the Board.

VI. LB 14-01 STATUS OF BARGAINING UNIT DISCUSSIONS AND CONSIDERATION OF ANY MOTION OR STIPULATED AGREEMENT. (JAMES MONTALBANO, AFSCME)

Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Lee Whistle appeared on behalf of AFSCME. Parties submitted a Stipulated Order of Dismissal and stated that they have finalized and signed the agreement. Chairman Halter made a motion to approve the Stipulated Order of Dismissal. Ms. Chappell seconded. Motion passed 3-0.

VII. MOTIONS.

- **LB 14-03, AFSCME'S MOTION TO DISMISS PPC.**
- **LB 13-28 REVIEW OF CITY'S MOTION TO DISMISS PPC. (ROCKY GUTIERREZ, AFSCME)**

Kelly Garcia, Assistant City Attorney appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME. Mr. Gutierrez stated that LB 13-28 was filed in November and the City responded in February and then the City filed LB 14-03 after almost 90 days. He feels that the City is outside their time limit to file their case. He asked the Board to not consolidate the cases and dismiss LB 14-03 for untimeliness and requested to set LB 13-28 for a hearing.

Ms. Garcia stated that the same facts are alleged in both the cases LB 13-28 and LB 14-03 and there would be no prejudice to the Union in consolidating the two cases. She stated that the Union acted in bad faith when they filed LB 13-28.

Chairman Halter made a motion to grant the City's Motion to Consolidate LB 13-28 and LB 14-03 and for the parties to go to mediation on this case. Mr. Montoya seconded. Motion passed 3-0.

This matter will be set for status on March 16, 2015.

- **LB 14-20 REVIEW OF MOTIONS FOR SUMMARY JUDGMENT AND RESPONSES THERETO. (ROCKY GUTIERREZ, AFSCME)**

Ms. Garcia appeared on behalf of the City and stated that the Union filed this Prohibited Practice Complaint on behalf of Stacey Valverde for her three day suspension. She stated that the City filed a Motion to Dismiss the PPC on the grounds that the Union filed this claim under a part of the Collective Bargaining Agreement that is void. She also stated that the Board does not have jurisdiction over this case and that the City argues there was just cause to discipline Ms. Valverde.

Mr. Gutierrez appeared on behalf of AFSCME Local 2962 and stated that the City has been under injunction since 2010 and renewed October 17th by the District Court judge for 90 day mediation and ordered to follow the CBA. He stated that the Board does have jurisdiction per the CBA to hear this case and should not be dismissed.

Ms. Garcia responded that the CBA was found to be erroneous issued and the court lifted the order and injunction on September 9th. She explained that Ms. Valverde failed to do her job in a thorough manner and the City had just cause to suspend her for three days.

Mr. Gutierrez stated that this matter was in a predetermination hearing and found that there were no violations of City policies and regulations. Union feels there was no just cause to discipline Ms. Valverde and the Union agreed to withdraw the whistle blower claim.

Ms. Chappell stated that the City was under court order to proceed as if the CBA is in effect.

Chairman Halter made a motion to deny the Motion for Summary Judgment and ordered the Union to amend the Complaint by January 31, 2015.

This case will be scheduled for March 16, 2015.

- **LB 14-23 REVIEW OF MOTIONS FOR SUMMARY JUDGMENT AND RESPONSES THERETO. (ROCKY GUTIERREZ, AFSCME)**

Ms. Garcia appeared on behalf of the City and stated that the Union has already sought relief from the District Court and should not be seeking relief from another venue with the Labor Board.

Mr. Gutierrez appeared on behalf of the AFSCME and stated that the only relief sought by the court was for the collective bargaining agreement. He asked the Board to set this case for a hearing.

Chairman Halter made a motion to stay this case pending the outcome of the District Court. Mr. Montoya seconded. Motion passed 3-0.

VIII. SCHEDULING OF CASES FOR HEARING.

- **LB 11-11 PROHIBITED PRACTICE COMPLAINT ON BEHALF OF AFSCME LOCAL 624 AGAINST THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR CREATING THE LEAD DRIVER POSITIONS WITHOUT NEGOTIATING CONDITIONS OF EMPLOYMENT OR WAGES. (ROCKY GUTIERREZ, AFSCME)**

This matter will be scheduled for March 2, 2015.

- **LB 13-23 PROHIBITED PRACTICE COMPLAINT ON BEHALF OF APOA AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT AND CHIEF ALLEN BANKS FOR VIOLATIONS OF CONTRACTUAL OBLIGATIONS. (FRED MOWRER, APOA)**

This matter will be scheduled for January 26, 2015.

- **LB 14-26 PROHIBITED PRACTICE COMPLAINT ON BEHALF OF APOA AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR ENTERING INTO A SETTLEMENT AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE WHICH MATERIALLY ALTERS MANY PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT. (FRED MOWRER, APOA)**

Mr. Mowrer appeared on behalf of APOA and stated that there is a pending policy agreement and this matter could be scheduled for spring of next year.

IX. MERITS HEARINGS.

- **LB 10-14 PROHIBITED PRACTICE COMPLAINT FILED AGAINST THE CITY OF ALBUQUERQUE ON BEHALF OF EDWARD JARAMILLO REGARDING THE ALLEGED VIOLATION OF THE LABOR-MANAGEMENT RELATIONS ORDINANCE.**

Ms. Hulst and Ms. Kountz appeared on behalf of the City. Ms. Hulst presented an email that was received from the grievant Mr. Jaramillo who stated who would not be present at the hearing. In his email he stated that he was not given adequate notice of the hearing. The City Motioned to dismiss the matter because the grievant failed to appear and participate.

Mr. Gutierrez appeared on behalf of AFSCME Local 1888 and Mr. Jaramillo. He stated that he worked for hours with Mr. Jaramillo on this matter and his understanding was that he would be present.

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

X. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Ms. Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 9:55a.m.

APPROVED:

Patrick Halter

PATRICK HALTER, CHAIR
City Labor Board

Jan. 12, 2015

DATE

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