

# CITY OF ALBUQUERQUE



## LABOR-MANAGEMENT RELATIONS BOARD

*Thursday May 15, 2014*

**600 2<sup>nd</sup> Street NW, 7<sup>th</sup> Floor, Albuquerque, NM 87102  
HEARING ROOM 1**

MEMBERS PRESENT:

*Patrick Halter  
Susan Chappell  
Juan Montoya*

OTHERS PRESENT:

*Doris Duhigg      Rocky Gutierrez  
Rebecca Wardlaw      Casey Padilla  
Melissa Kountz      Marcus Garcia  
Stevie Nichols      Jessica Enriquez  
Kathy Levy*

### MINUTES

PO Box 1293

**I. CALL TO ORDER.**

Chairman Halter called meeting to order at 9:00 a.m., all members were present.

Albuquerque

**II. REVIEW AND APPROVAL OF AGENDA FOR THURSDAY, MAY 15,, 2014.**

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

NM 87103

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR APRIL 14, 2014.**

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

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**IV. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR MARCH 26, 2014.**

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

**V. MOTION REVIEWS IN LB 10-02 (MARCUS GARCIA)**

- **COMPLAINANTS' MOTION FOR ENTRY OF FINAL ORDER ARISING FROM MOTION TO SET ASIDE AND VACATE ORDER OF DISMISSAL.**
- **CITY'S RESPONSE TO MOTION FOR ENTRY OF FINAL ORDER ARISING FROM MOTION TO SET ASIDE AND VACATE ORDER OF DISMISSAL.**
- **COMPLAINANTS' REPLY IN SUPPORT OF MOTION FOR ENTRY OF FINAL ORDER ARISING FROM MOTION TO SET ASIDE AND VACATE ORDER OF DISMISSAL**

Marcus Garcia appeared on behalf of the Complainants' and presented their Motion for Entry of Final Order.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and presented the City's Response in opposition of the Complainants' Motion. She stated that the Board issued a final decision on November 26, 2013 and that decision has not been appealed by the complainants' in District Court.

Chairman Halter made a motion to grant Complainants' Motion for Entry of Final Order. Mr. Montoya seconded. The motion passed 3-0.

*Albuquerque - Making History 1706-2006*

- VI. LB 13-22, REVIEW AND APPROVAL OF THE ORDER OF DISMISSAL ON THE STIPULATED MOTION TO DISMISS. (FRED MOWRER)**  
Fred Mowrer appeared on behalf of IAFF local 244 and presented to the Board a Stipulated Order to Dismiss.

Rebecca Wardlaw, Assistant City Attorney appeared for the City of Albuquerque and stated that the matter has been settled.

Order was approved and signed by the Board members.

- VII. LB 14-02, REVIEW AND APPROVAL OF THE ORDER ON PETITIONER'S MOTION TO ADMEND PPC. (FRED MOWRER)**  
Mr. Mowrer presented to the Board an Order to Amend the PPC, approved by Assistant City Attorney's Rebecca Wardlaw and Samantha Hultz.

Order was approved and signed by the Board members.

- VIII. LB 10-23, REVIEW OF THE STIPULATED MOTION TO DISMISS. (FRED MOWRER)**  
Mr. Mowrer on behalf of IAFF local 244 presented to the Board an Order to Dismiss.

Order was approved and signed by the Board members.

- IX. LB 10-01, REVIEW OF CITY'S MOTION FOR SUMMARY JUDGMENT. (AFSCME LOCAL 624)**  
Mr. Gutierrez stated that after review of the issue the Union has agreed to dismiss the matter.

Ms. Wardlaw on behalf of the City will prepare the Order.

- X. LB 11-26, REVIEW OF CITY'S MOTION FOR SUMMARY JUDGMENT. (AFSCME LOCAL 2962)**

Stevie Nichols, Assistant City Attorney appeared on behalf of the City of Albuquerque and presented the City's Motion for Summary Judgment and the City's argument to the Prohibited Practice Complaint filed by AFSCME regarding an M series position being given to Mary Jane Holguin who was an outside applicant rather than giving the position to Carla Navarrete who is a city employee. Ms. Nichols stated that the City filed the motion on April 3, 2014 and the union passed the 10 day deadline to respond. She stated that both Carla Navarrete and Mary Jane Holguin's met the qualifications for the promotion but Navarrete was not selected as one of the top candidates. Ms. Nichols responded to the Union's allegations that the City violated the collective bargaining agreement.

Rocky Gutierrez appeared on behalf of AFSCME Local 2962 and stated that both under the collective bargaining agreement a person is qualified if they receive an interview and Ms. Navarrete received an interview. He stated that other c series employees were offered the position and turned it down, so Ms. Navarrete should have been the next person in line to be offered the position. He stated that Navarrete does not have a degree but that does not disqualify her because she has been with the department for 17 years and performs the duties and functions of the position in dispute. Mr. Gutierrez asked the Board to deny the City's Motion and set this matter for a hearing.

Juan Montoya moved to deny the City's Motion for Summary Judgment. Chairman Halter seconded. Passed 3-0.

A hearing will be scheduled in July.

- XI. LB 12-22, REVIEW OF CITY'S MOTION FOR A MORE DEFINITE STATEMENT. (AFSCME LOCAL 2962)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and presented the City's Motion for a More Definite Statement.

Mr. Gutierrez appeared on behalf of AFSCME and stated that the union understands the City's

request and they will provide a more specific statement to the allegations within 30 days.

Chairman Halter stated that a More Definite Statement is due by June 30, 2014.

**XII. LB 09-25, REVIEW OF CITY'S MOTION TO DISMISS FOR FAILURE TO PROVIDE MORE DEFINITE STATEMENT. (AFSCME LOCAL 624)**

Mr. Gutierrez appeared on behalf of AFSCME Local 624 and stated that the Union has agreed to dismiss the matter and he will file an Order with the Board.

**XIII. LB 11-13, REVIEW OF CITY'S MOTION FOR SUMMARY JUDGMENT. (AFSCME LOCAL 624)**

Ms. Wardlaw appeared on behalf of the City of Albuquerque and presented the City's Motion for Summary Judgment. She stated that the Union has not submitted any Pleadings stating any factual disputes. She presented rebuttals on the facts stated in the PPC when Aragon said he was forced into the City's Substance Abuse Program.

Mr. Gutierrez appeared on behalf of AFSCME Local 624 and Mr. Aragon. He stated that Aragon was given two options for his actions but then was forced to sign up for the program. He presented rebuttals to the City's Motion for Summary Judgment and stated that because there are issues in dispute that this matter should be scheduled for a hearing.

Mr. Montoya moved to deny the City's Motion. Chairman Halter seconded. Passed 3-0.

This case will be scheduled for a hearing in August 2014.

**XIV. SCHEDULING OF PENDING CASES.**

- **LB 12-26 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**
- **LB 12-34 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR DENYING AN OFFICER A REPRESENTATIVE DURING AN ADMINISTRATIVE INTERVIEW (FRED MOWRER, APOA)**
- **LB 13-03 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**
- **LB 13-24 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**
- **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)**

No one was present on behalf of NMTU.

Chairman Halter stated that cases LB 12-26, LB 12-34, LB 13-03, LB 13-24 and LB 14-05 will be scheduled for June 16, 2014. Cases LB 12-06 and LB 11-11 will be scheduled for June 30, 2014.

**XV. ADJOURNMENT.**

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

**APPROVED:**

*Patrick Halter*

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**PATRICK HALTER, CHAIR**  
**City Labor Board**

*6.16.2014*

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**DATE**

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