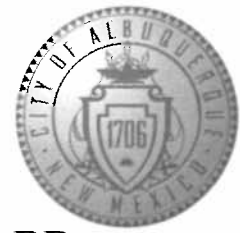


CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD

Monday, October 27, 2014

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

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Samantha Hults
Kellie Garcia
Melissa Kountz
James Montalbano
Jessica Enriquez*

*Adrian Terry
Lee Whistle
Rocky Gutierrez
Victor Lovato*

MINUTES

I. CALL TO ORDER.

Chairman Halter called the meeting to order at 9:05 a.m. and all members were present.

PO Box 1293

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, OCTOBER 27, 2014.

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

Albuquerque

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR OCTOBER 13, 2014.

Chairman Halter made a motion to approve the minutes for October 13, 2014. Mr. Montoya seconded. Motion passed 3-0.

NM 87103

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

None.

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

None.

VI. LB 11-06, REVIEW OF CITY'S AMENDED ANSWER AND POSITION STATEMENT. (ROCKY GUTIERREZ, AFSCME LOCAL 624)

Rocky Gutierrez appeared on behalf of AFSCME. Samantha Hults, Assistant City Attorney appeared on behalf of the City.

Chairman Halter stated that this matter is set for a hearing for December 1, 2014 and was previously agreed to by the parties.

VII. STATUS OF BARGAINING UNIT AGREEMENT IN LB 14-01. (JAMES MONTALBANO, AFSCME COUNCIL)

James Montalbano appeared on behalf of AFSCME. Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Parties stated that they are still in the process of finalizing their agreement.

Chairman Halter stated that this matter will be scheduled for status on December 1, 2014.

VIII. ORDERS AND MOTIONS.

- **LB 11-11, CIT'S MOTION FOR SUMMARY JUDGMENT OF PPC. (ROCKY GUTIERREZ, AFSCME LOCAL 624)**

Ms. Kountz appeared on behalf of the City and stated that the Union submitted a response and the City submitted reply. The Union's response focuses on things outside the scope of the complaint. The Union first stated that the issue was that the City created a position without bargaining and in their response they state that the City did not bargain over vacation and training process.

Rocky Gutierrez appeared on behalf of AFSCME Local 624. He stated that the City is requested the B-31 employees to do the same as the extra board drivers.

Chairman Halter made a motion for the Board to go into closed session. Susan Chappell seconded. Motion passed 3-0.

Closed session concluded. Chairman Halter made a motion to return to open session. Ms. Chappell seconded. Motion passed 3-0.

Chairman Halter made a motion to grant the City's Motion for Summary Judgment and stated that the City had the right to create the position and was not required to negotiate. His second part of his motion was to schedule this matter for a hearing. Mr. Montoya seconded. Motion passed 3-0.

- **LB 14-23, CITY'S MOTION FOR ENLARGEMENT OF TIME TO FILE DISPOSITIVE MOTIONS. (ROCKY GUTIERREZ, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and stated that she spoke with Mr. Gutierrez prior to the meeting and the City has agreed to give him until November 14, 2014 to file the Union's response.

- **LB 14-20, CITY'S MOTION FOR ENLARGEMENT OF TIME TO FILE DISPOSITIVE MOTIONS. (ROCKY GUTIERREZ, AFSCME)**

Ms. Garcia appeared on behalf of the City and stated that the City has agreed to give Mr. Gutierrez until November 14, 2014 to submit his response.

- **LB 14-08 ORDER OF DISMISSAL (JAMES BIRD)**

Ms. Kountz appeared on behalf of the City and stated that Mr. Bird has agreed to the Order.

Chairman Halter made a motion for the Board to approve and sign the Order of Dismissal. Ms. Chappell seconded. Motion passed 3-0.

- **CITY'S MOTION FOR RECONSIDERATION ARB 11-01, 11-02, 11-03 consolidated with LB 11-23. (JAMES MONTALBANO, AFSCME)**

Ms. Hults appeared on behalf of the City and stated that LB 11-23 had a merits hearing and the Board consolidated the case with ARB 11-01, 11-02 and 11-03. The City appealed the determination in LB 11-23 in District Court and the case was dismissed by the Judge. She argued that since LB 11-23 was dismissed then ARB 11-01, 11-02 and 11-03 should also be dismissed since they were all consolidated. She handed out copies of the Opinion of the District Court in LB 11-23.

Mr. Gutierrez appeared on behalf of AFSCME and stated that ARB 11-01, 11-02 and 11-03 are not complaints they are request for Arbitration. He asked the Board to put the case on hold.

Chairman Halter made a motion to hold off until the parties complete mediation. Mr. Montoya seconded. Motion passed 2-1

Ms. Chappell made a motion to grant the City's Motion for Reconsideration. No second and motion failed 1-2.

IX. SCHEDULING OF PENDING CASES.

None.

X. CITY'S REFERRAL TO LMRB OF NMTU REQUEST FOR RECOGNITION AS EXCLUSIVE REPRESENTATIVE AND ANY RESPONSES THERETO.

Ms. Hults appeared on behalf of the City and stated that the City received a number of signed cards and a request for recognition from NMTU. She stated that the City needs direct as to who is the representative for NMTU.

Attorney Adrian Terry appeared on behalf of NMTU and presented the request for recognition. He stated that a demonstration of support have been received through 194 signed cards. He stated that is was previously represented by NMTU and is currently under the umbrella of AFSCME Local 624. He asked the Board to certify NMTU for the bargaining representative for Motor Coach Operators and Sun Van \Drivers.

Mr. Gutierrez appeared on behalf of AFSCME Local 624 and reads section of the LMRO 3.2.6 and stated that the parties are in continued negotiation to resolve the contract and impasse at hand. He stated that the Board does not have jurisdiction to address this matter and it was not filed timely.

Mr. Terry stated that at the time he filed his request there was no contract in place.

Mr. Gutierrez stated that the parties are under mandatory mediation by the court to resolve the contract.

Chairman Halter stated that the City has recognized AFSCME Local 624 as the exclusive bargaining unit.

Ms. Hults stated that the City has been under an injunction issued by the court and mandated by the court to treat AFSCME as the bargaining unit.

Chairman Halter made a motion for close session to discuss NMTU referral. Ms. Chappell seconded. Motion passed 3-0.

Closed session concluded. Chairman Halter made a motion to return to open session. Ms. Chappell seconded. Motion passed 3-0.

Ms. Chappell made a motion that all parties submit written briefs within 30 days on why the Board does or does not have jurisdiction to decide this petition for representation. Considering the language of the LMRO section 3.2.6J. Parties can respond to the other parties briefs within 15 days. Chairman Halter seconded. Motion passed 3-0. Briefs due by November 26, 2014.

Mr. Terry asked the Board to move to reconsideration and to take notice that there is no current agreement in place. He gave a verbal motion that section is not applicable.

XI. NEW BUSINESS.

- **14-11 PROHIBITED PRACTICE COMPLAINT AND REQUEST FOR EXPEDITED HEARING TO BE SCHEDULED AGAINST THE CITY OF ALBUQUERQUE'S DEPARTMENT OF MUNICIPAL DEVELOPMENT FOR UNILATERALLY IMPOSING FURLOUGH DAYS OFF TO SECURITY GUARDS. (JAMES MONTALBANO, AFSCME LOCAL 1888)**

Chairman Halter suggested that the parties consider mediation. This matter will be rescheduled to November 17, 2014.

- **14-14 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S HUMAN RESOURCE DEPARTMENT AND THE CITY OF ALBUQUERQUE'S SOLID WASTE MANAGEMENT DEPARTMENT FOR VIOLATING THE LMRO AND THE CBA BY FAILING TO NEGOTIATE THE POLICY TO IMPASSE. (CASEY PADILLA, AFSCME LOCAL 624)**

Chairman Halter suggested that the parties consider mediation. This matter will be rescheduled to November 17, 2014.

XII. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and the meeting was adjourned at 10:48 a.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

Dec. 1, 2014
DATE

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