

**LABOR-MANAGEMENT RELATIONS BOARD**  
***Monday, December 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:**

<i>Doris Duhigg Nicholas Bullock Kellie Garcia Samantha Hults Melissa Kountz Pat Mezzancello Jessica Enriquez</i>	<i>Tasha Smalls Vanessa King Denise Enriquez Brittany Lopez Kathryn Levy Fred Mowrer</i>
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**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. Hults and Ms. Kountz appeared on behalf of the City. Ms. Hults 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.

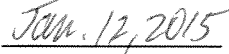
Chairman Halter made a motion to grant the City's Motion to Dismiss. Ms. Chappell seconded. Motion passed 3-0.

**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, CHAIR**  
**City Labor Board**

  
\_\_\_\_\_  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, December 1, 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:

<i>Doris Duhigg</i>	<i>Rocky Gutierrez</i>
<i>Nicholas Bullock</i>	<i>Casey Padilla</i>
<i>Kellie Garcia</i>	<i>Lee Whistle</i>
<i>Marie Legrand-Miller</i>	<i>Deb Rainaldi</i>
<i>Samantha Hults</i>	<i>Mike Dorin</i>
<i>Melissa Kountz</i>	<i>Denisse Enriquez</i>
<i>Jessica Enriquez</i>	<i>Erika Wilson</i>

### 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 1, 2014.**

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

NM 87103

#### **III. REVIEW AND APPROVAL OF CORRECTED LABOR BOARD MINUTES FOR OCTOBER 27, 2014.**

Chairman Halter stated that the change in minutes was the heading of the date that previously showed October 13, 2014 but the correct date is October 27, 2014. He made a motion to approve the corrected minutes. Juan Montoya seconded and the motion passed 3-0.

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#### **IV. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR NOVEMBER 17, 2014.**

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

#### **V. PUBLIC COMMENTS \*Limited to three (3) minutes total time per person.**

None.

#### **VI. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**

None.

#### **VII. STATUS OF BARGAINING UNIT AGREEMENT IN LB 14-01. (JAMES MONTALBANO, AFSCME LOCAL 1888)**

Marie Legrand-Miller and Melissa Kountz, Assistant City Attorney's appeared on behalf of the City. Lee Whistle appeared on behalf of AFSCME Local 3022. The parties stated that they are working on a finalized settlement agreement and will submit a Motion to Dismiss.

This matter will be scheduled on December 15, 2014 for status.

*Albuquerque - Making History 1706-2006*

**VIII. PRESENTMENT HEARING ON THE CITY'S PROPOSED ORDER DENYING PPC IN LB 08-35.**

Samantha Hults, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME Local 1888. Ms. Hults stated that the City sent a Proposed Order to the Union and the Union objected to the findings of facts and conclusions. She asked the Board to review and sign the Order or alternatively she would provide a word document for the Board to review and make changes to.

Rocky Gutierrez stated that the Union believes that the City omitted some information to the findings of facts. He suggested that the parties agree on an Order and then present it to the Board.

Ms. Chappell stated that she would like to see the parties agree on a Proposed Order and if they do not agree then the Board will have a presentment hearing.

Matter was rescheduled for January 12, 2014.

**IX. OLD BUSINESS**

- **ADMINISTRATIVE REVIEW OF LB 99-08 (AFSCME LOCAL 624), LB 99-14 (NMTU), LB 06-27 (AFSCME LOCALS 624, 2962, 3022), LB 06-36 (AFSCME LOCAL 624).**

Kellie Garcia, Assistant City Attorney appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME and stated that the Union will get together with the City to figure out status on old cases.

LB 99-08, LB 06-27 and LB 06-36 will be scheduled for status on January 12, 2014.

Ms. Garcia stated that LB 99-14 was brought by NMTU and that Union is no longer is existence and the representative was Paul Livingston who has been disbarred. She asked the Board to dismiss the case.

Chairman Halter confirmed that Mr. Livingston was sent a copy of the meeting agenda. He asked the City to submit a Motion to Dismiss.

**X. NEW BUSINESS**

- **LB 14-03 PROHIBITED PRACTICE COMPLAINT AGAINST THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 18, AFL-CIO, AND LOCAL 2962 FOR DISCLOSING CONFIDENTIAL CONTENTS OF CLOSED DOOR NEGOTIATIONS, AND MOTION TO CONSOLIDATE WITH LB 13-28.**

Ms. Garcia appeared on behalf of the City and stated that the City filed this PPC because of comments that were made at a City Council meeting on November 4, 2013. City alleges the comments were made against the LMRO to keep comments confidential. She stated that LB 13-28 was a PPC filed by the Union against the City regarding the same core of incident and asked the Board to consolidate the two cases.

Mr. Gutierrez asked the Board to deny consolidating the two cases and stated that the City filed there Complaint untimely.

Ms. Garcia responded that the City filed there PPC beyond the 30 day window but the Union may have also filed their PPC untimely.

This matter was rescheduled by the Board to December 15, 2014 to review AFSCME's oral motion to dismiss and City's motion to consolidate.

**XI. MERITS HEARINGS.**

- **LB 11-06, STEP III GRIEVANCE FOR USAGE OF SICK LEAVE ON BEHALF OF ALL CLERICAL EMPLOYEES WITHIN THE ALBUQUERQUE POLICE DEPARTMENT.**

Ms. Garcia appeared on behalf of the City. Mr. Gutierrez and Debbie Rainaldi appeared on behalf of AFSCME. Karen Salazar with APD was also present as the department representative.

Mr. Gutierrez presented an opening statement and stated that the City has implemented a 44% rule with APD employees. This agreement expired in 2010 but is in injunction by the court to still be enforced. He read the sick leave procedure for clerical and technical employees. He cited the Collective Bargaining Agreement regarding Personnel Sick Leave. He asked the Board to enforce the CBA and ask City to adhere to the policy and negotiate with the Union.

Ms. Garcia reads section of CBA 6.1 Sick Leave and the APD Administrative Order. The City asks the Board to deny the PPC.

Erica Lee Wilson, Emergency Communication Manager with APD was called by Mr. Gutierrez to testify.

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

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

Chairman Halter made a motion to dismiss the case because there is no active case in controversy and original complaint is not an alleged policy of non-negotiating. Ms. Chappell seconded. Motion passed 3-0.

- **LB 14-22, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF AFSCME LOCAL 624 AND SOLID WASTE EMPLOYEES AGAINST THE CITY OF ALBUQUERQUE, SOLID WASTE DEPARTMENT FOR FAILING TO NEGOTIATE THE POLICY TO IMPASSE. (CASEY PADILLA, AFSCME LOCAL 624)**

Ms Legrand-Miller appeared on behalf of the City. Mr. Gutierrez and Casey Padilla appeared on behalf of AFSCME. Both parties presented opening statements and Mr. Gutierrez stated that the Union dismisses this case.

Chairman Halter stated that this case is closed.

**XII. ADJOURNMENT.**

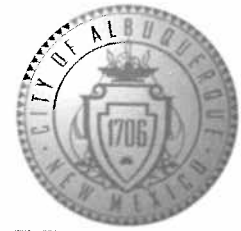
Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and the meeting was adjourned at 1:15 p.m.

**APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, November 17, 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
Nicholas Bullock	James Montalbano
Kelly Garcia	Fred Mowrer
Marie Legrand-Miller	Jessica Enriquez

### *MINUTES*

#### **I. CALL TO ORDER.**

Chairman Patrick Halter called the meeting to order at 9:03 a.m. All members were present.

#### **II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, NOVEMBER 17, 2014.**

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

#### **III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR OCTOBER 27, 2014.**

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

#### **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.**

None.

#### **VI. MOTIONS.**

- **LB 14-23, CITY'S MOTION FOR ENLARGEMENT OF TIME TO FILE DISPOSITIVE MOTIONS AND THE UNION'S RESPONSE THERETO. (ROCKY GUTIERREZ, AFSCME)**
- **LB 14-20, CITY'S MOTION FOR ENLARGEMENT OF TIME TO FILE DISPOSITIVE MOTIONS AND THE UNION'S RESPONSE THERETO. (ROCKY GUTIERREZ, AFSCME)**
- **LB 14-22, CITY'S MOTION FOR ENLARGEMENT OF TIME TO FILE DISPOSITIVE MOTIONS. (CASEY PADILLA, AFSCME)**

Marie Legrand-Miller and Kelly Garcia, Assistant City Attorney's appeared on behalf of the City. Ms. Garcia stated that the City has filed three Motions for Enlargement of Time to File Dispositive Motions in each case which will allow the City to file dispositive motions no later than 30 days before a merits hearing and responses can be submitted within 15 calendar days from the date of the motion and that there would be no prejudice caused. She stated that allowing the City to file Dispositive Motions can eliminate disputes.

Rocky Gutierrez appeared on behalf of AFSCME Local 624 and 2962 and requested City's motion be denied. He stated that the Ordinance is set up to settle disputes and by granting the City's Motion it would delay the process. He argued that the City has had adequate time to investigate and respond and did not. LB 14-20 case is a disciplinary case and a matter of just cause. Briefs case LB 14-20 and stated that the grievant filed a Step 1 grievance and received no response from the Director. Step II was filed with HR and City made no request to meet with Union. He requested for the cases be set for hearings.

Chairman Halter agreed to schedule LB 14-22 for merits hearing on December 1, 2014.

Chairman Halter made a motion LB 14-20 and LB 14-23 to grant City's Motion for Enlargement of time to submit Dispositive Motions with a deadline by December 15, 2014. Merits hearing will be scheduled if Motions are not granted. Mr. Montoya seconded and motion passed 3-0.

**VII. 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 stated that the complaint requests an expedited hearing and the parties have agreed to consolidate this case with LB 13-14, and LB 12-34. Case will be scheduled for January 26, 2015.

James Montalbano with Youtz and Valdez appeared on behalf of AFSCME Local 1888 and stated that issues will be addressed at negotiation mediation ordered by the court for 90 days and the parties should be prepared for a hearing in late January.

- **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 scheduled this case for a hearing for February 2, 2015

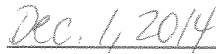
LB 14-24 and LB 14-25 will also be scheduled for merits hearing on February 2, 2015.

**VIII. ADJOURNMENT.**

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. The motion passed 3-0 and meeting was adjourned at 9:30 a.m.

**APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, October 27, 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:

<i>Samantha Hults</i>	<i>Adrian Terry</i>
<i>Kellie Garcia</i>	<i>Lee Whistle</i>
<i>Melissa Kountz</i>	<i>Rocky Gutierrez</i>
<i>James Montalbano</i>	<i>Victor Lovato</i>
<i>Jessica Enriquez</i>	

### **MINUTES**

#### **I. CALL TO ORDER.**

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

#### **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.

#### **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.

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

None.

#### **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**

  
\_\_\_\_\_  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, October 13, 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  
Samantha Hults  
Melissa Kountz  
Marie Legrand-Miller  
Jessica Enriquez*

*Kellie Garcia  
Lee Whistle  
Rocky Gutierrez  
James Montalbano*

### **MINUTES**

#### **I. CALL TO ORDER.**

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

#### **II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, OCTOBER 13, 2014.**

Chairman Halter made a motion to approve the agenda. Juan Montoya seconded. Passed 3-0.

#### **III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR SEPTEMBER 26, 2014.**

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

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

Kelly Garcia, Assistant City Attorney appeared on behalf of the City and stated that the City is having difficulty understanding the deadlines for dispositive motions. She suggested that the Board consider revising the Rules and Regulations to be similar to the Personnel Board Rules and Regulations.

Samantha Hults, Assistant City Attorney stated that it would be beneficial to both parties to revise the Labor Board Rules and Regulations.

Rocky Gutierrez appeared on behalf of AFSCME stated that the City holds the Union on deadlines all the time and that the City has five days to respond and thirty days to submit a dispositive motion.

Chairman Halter asked the City and the Union representatives to collaborate and draft up a proposal for revision to the Labor Board Rules and Regulations.

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

None.

#### **VI. LB 12-22, REVIEW OF THE CITY'S MOTION TO STRIKE. (ROCKY GUTIERREZ, AFSCME LOCAL 2962)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the City and stated that the Union filed a Response but did not state nothing more definite as requested by the Board. She argued that the burden was on the Union to prove and they did not and moved to dismiss the case.

Mr. Gutierrez appeared on behalf of AFSCME and Annette Gomez. He briefed the case and stated that Annette Gomez was performing all duties of an Administrative Assistant since July 2008 and the complaint was filed in 2011. He stated that Ms. Gomez was not paid for performing the duties and was the reason why the complaint was filed. He stated that the Union responded by the deadline of June 30, 2014 and the City filed their Motion on August 29, 2014 which was sixty days later and motions should be filed in thirty days so the City's Motion was untimely.

Chairman Halter made a motion to deny the City's Motion to Strike and set the case for a hearing. Mr. Montoya seconded. Motion passed 3-0 and case will be scheduled for a hearing on January 12, 2015.

**VII. REVIEW OF THE RECORD IN LB 08-35.**

Chairman Halter stated that this case had a merits hearing at the prior Labor Board meeting and both parties submitted post hearing Briefs. He made a motion for the Board to go into closed session. Mr. Montoya seconded. Passed 3-0.

Chairman Halter made a motion to return to open session. Ms. Chappell seconded. Passed 3-0.

Chairman Halter stated that the Board was in closed session to discuss the case in LB 08-35. He made his first motion that the Labor Board is not required to follow the Personnel Board definition of just cause as stated by the City and second part of the motion was to dismiss the complaint because there was just cause for termination. Ms. Chappell seconded. Motion passed 3-0. City will draft the Order.

**VIII. SCHEDULING OF PENDING CASES.**

Fred Mowrer appeared on behalf of APOA and stated that the parties are prepared to schedule hearings for LB 13-23, LB 14-12, LB 14-13 and LB 14-15.

Chairman Halter stated that LB 13-23 will be scheduled for hearing on January 12, 2015, LB 14-12 hearing will be on February 2, 2015, LB 14-13 hearing will be on February 16, 2015 and LB 14-15 hearing will be on March 2, 2015.

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

Chairman Halter stated that the referral was dated September 23, 2014 and was from Terry Adrian to the Mayor. The letter from Rob Perry to the Board was dated September 29, 2014. He stated that AFSCME Local 624 is the current certified exclusive bargaining union for Transit and the City by there conduct has recognized AFSCME Local 624 as the bargaining unit. He stated that the court threw out the prior election results and AFSCME never lost their status.

Ms. Hults appeared on behalf of the City and stated that the City received the new presentation and cards, that's why was brought to the Board's attention. She stated that the City has done the postings required and AFSCME had not responded.

No one was present from New Mexico Transit Union.

Chairman Halter made a motion that AFSCME Local 624 is the current certified exclusive bargaining union. Mr. Montoya seconded. Motion passed 3-0.

**X. SCHEDULING OF HEARING DATE**

- **LB 11-26 STEP III GRIEVANCE ON BEHALF OF DEPARTMENT OF FINANCE EMPLOYEE CARAL NAVARRETTE, DENIED SELECTION OF THE PROMOTION PROCESS. (ROCKY GUTIERREZ, AFSCME LOCAL 2962)**

Chairman Halter stated that this case will be scheduled on January 12, 2015 for a merits hearing.

**XI. MERITS HEARING**

- **LB 14-01 AFSCME LOCAL 3022 COMPLAINT AGAINST THE CITY OF ALBUQUERQUE FOR NONNEGOTIATIONS OF THE BARGAINING UNIT FOR E AND M SERIES EMPLOYEES. (JAMES MONTALBANO, ATTORNEY FOR AFSCME LOCAL 3022)**

Melissa Kountz appeared on behalf of the City. James Montalbano with Youtz and Valdez appeared on behalf of AFSCME. Both parties stated that they have reached a settlement agreement that both parties will agree to meet on positions that become vacant. Parties will provide a final Order to the Board.

**XII. ADJOURNMENT.**

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

**APPROVED:**



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

10.27.14  
**DATE**

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



**LABOR-MANAGEMENT RELATIONS BOARD**  
***Friday, September 26, 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:**

<i>Doris Duhigg</i>	<i>Vanessa King</i>
<i>Samantha Hults</i>	<i>Lee Whistle</i>
<i>Melissa Kountz</i>	<i>Rocky Gutierrez</i>
<i>Marie Legrand-Miller</i>	<i>James Montalbano</i>
<i>Jessica Enriquez</i>	

***MINUTES***

**I. CALL TO ORDER.**

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

PO Box 1293

**II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, OCTOBER 13, 2014.**

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

Albuquerque

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR SEPTEMBER 26, 2014.**

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

NM 87103

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

Chairman Halter stated that the future hearing dates for 2015 will be; January 12<sup>th</sup> and 26<sup>th</sup>, February 2<sup>nd</sup> and 16<sup>th</sup>, March 2<sup>nd</sup>, 16<sup>th</sup>, and 30<sup>th</sup>, April 6<sup>th</sup> and 20<sup>th</sup>, May 4<sup>th</sup> and 18<sup>th</sup>.

www.cabq.gov

Chairman Halter made a motion to approve and sign the Order in item XIII, LB 12-34 and LB 13-03. Mr. Montoya seconded. Motion passed 3-0.

**V. LB 14-01, REVIEW OF AFSCME'S AND CITY'S EVIDENCE AND ARGUMENTS FOR BARGAINING UNIT POSITIONS. (JAMES MONTALBANO, AFSCME)**

James Montalbano for Youtz and Valdez, on behalf of AFSCME, stated that both parties submitted opening statements and they are ready to proceed with the hearing on October 13, 2014. He requested to start with the animal welfare department employees first and aviation second. He also requested that the City provide the Union with any evidence or documents before the hearing.

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City and stated that the City was directed to provide position statements for animal welfare and aviation.

Chairman Halter requested from the parties a list of positions that have been agreed to.

This matter will be scheduled for October 13, 2014 and will begin with the animal welfare employees.

**VI. LB 10-14, REVIEW OF CITY'S MOTION FOR SUMMARY JUDGEMENT OF PPC. (AFSCME LOCAL 1888)**

Samantha Hults, Assistant City Attorney on behalf of the City objected to the Union's Response that was received the night before the meeting. She briefed the case and stated that Mr. Jaramillo was provided his due process and asked the Board to uphold his termination.

Rocky Gutierrez appeared on behalf of AFSCME Local 1888, stated that the Order was supposed to be submitted by the 26<sup>th</sup> of September. He presented argument to the City's statements and stated that Mr. Jaramillo was not at fault. He stated that there are disputed facts and asked the Board to grant a hearing.

Chairman Halter made a motion to go into closed session to discuss LB 10-14. Mr. Montoya seconded. Motion passed 3-0.

Closed session concluded. Chairman Halter made a motion to deny Motion for Summary Judgment. Mr. Montoya seconded. Motion passed 3-0.

Case will be scheduled for a hearing on December 15, 2014.

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

Melissa Kountz, Assistant City Attorney appeared on behalf of the City and stated that Mr. Gutierrez was ordered to file a written response and he had not provided one.

Mr. Gutierrez appeared on behalf of AFSCME Local 624 and requested more time to file a response.

Melissa Kountz objected on allowing Mr. Gutierrez more time to file a response.

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

Closes session concluded. Chairman Halter granted the Union until October 10, 2014 to file a response and the City can respond to the Union's response by October 17, 2014.

Case will be scheduled for October 27, 2014.

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

Ms. Hults appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME Local 624.

Chairman Halter made a motion to schedule this matter for a hearing on December 1, 2014. Ms. Chappell seconded. Motion passed 3-0.

**IX. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**

None.

**X. DISCUSSION OF SCHEDULING HEARINGS IN APOA CASES. (JOHN D'AMATO AND FRED MOWRER)**

- LB 12-26
- LB 13-12
- LB 13-23
- LB 14-13
- LB 14-15
- LB 14-02

Doris Duhigg, Attorney for the Board stated that Mr. Mowrer asked her to notify the Board of the parties Stipulated Motion to Continue.

These cases will be rescheduled for future dates.

**XI. LB 12-22, REVIEW OF ORDER OF DISMISSAL.**

Ms. Kountz appeared on behalf of the City and stated that the order that was previously signed was not a stipulated order. She asked the Board to put the City's Motion to Strike Petitioner's Response on the City's More Definite Statement, on next month's agenda.

Chairman Halter made a motion to vacate order that was signed and schedule this matter for next month. Mr. Montoya seconded. Motion passed 3-0.

**XII. SCHEDULING OF PENDING CASES.**

None.

**XIII. ISSUANCE OF BOARD DECISION IN LB 12-34 AND LB 13-03.**

See Item IV.

**XIV. MERITS HEARING**

- **LB 08-35 STEP III GRIEVANCE PROCEDURES IN ACCORDANCE WITH THE CBA BETWEEN THE CITY OF ALBUQUERQUE AND LOCAL 1888, ARTICLES 25.2.5, 25.2.6 AND 25.2.7. (ROCKY GUTIERREZ, AFSCME)**

Samantha Hults appeared on behalf of the City and gave an opening statement and briefed the case. She stated that the grievant Erasmo Torres was a security guard when he was terminated for stealing items from safe keeping. City's witnesses that testified were John Castillo, Ernest Gonzales, Mark Shepard and Diane Kimberle. All witnesses presented themselves and were sworn in and testified. City's exhibits 1 through 18 were admitted.

Rocky Gutierrez, AFSCME representative appeared on behalf of the grievant Erasmo Torres and gave an opening statement. Grievant exhibits A and B were presented and admitted. Grievant witnesses Patrick Gutierrez and Jason Gomez were sworn in and testified. Mr. Gutierrez presented argument that confiscated items were not stolen items.

Chairman Halter ordered parties to submit written closing statements before the October 13, 2014 meeting and matter will be placed on the agenda.

**XV. ADJOURNMENT.**

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and meeting was adjourned at 3:30 p.m.

**APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Friday, September 5, 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*  
*Samantha Hults*  
*Melissa Kountz*  
*Marie Legrand-Miller*  
*Jessica Enriquez*  
*Mary Scott*  
*Victor Lovato*  
*James Bird*  
*James Montalbano*

### **MINUTES**

#### **I. CALL TO ORDER.**

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

#### **II. REVIEW AND APPROVAL OF AGENDA FOR FRIDAY, SEPTEMBER 5, 2014.**

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

#### **III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR AUGUST 18, 2014.**

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

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

No public comments.

#### **V. LB 14-01, STATUS REPORT OF BARGAINING UNIT IN AFSCME LOCAL 3022 AND THE CITY OF ALBUQUERQUE. (JAMES MONTALBANO, AFSCME)**

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City of Albuquerque. James Montalbano, Attorney on behalf of AFSCME Local 3022. They stated that the City and the Union could not reach an agreement in some positions which include the E15 series positions.

Chairman Halter requested written statements by both parties that are due by September 26, 2014. He stated that this matter will be heard for the October 13, 2014 meeting and if more time is needed then it will continue to the October 27, 2014 meeting.

#### **VI. LB 14-08, REVIEW OF CITY'S MOTION TO DISMISS AND PETITIONERS RESPONSE TO CITY'S MOTION TO DISMISS THERETO. (JAMES BIRD, ABQ RIDE)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that the complaint filed by James Bird is not a matter of jurisdiction for the Labor Board Relations Board.

James Bird appeared and stated that he has read what the Labor Board governs and it does not eliminate anybody just because he is not covered by the Union. He argued that he is a City Employee with rights and that he was given direction by his HR to file with Labor Board. He asked where he needs to file his complaint.

Chairman Halter responded that this Board does not have jurisdiction on the case. He made a motion to dismiss. Ms. Chappell seconded. Motion passed 3-0.

**VII. LB 14-07, REVIEW ORDER OF DISMISSAL.**

Samantha Hults appeared on behalf of the City of Albuquerque and stated that the order was sent to Mr. Gutierrez and Mr. Anaya for their review but they never responded.

Chairman Halter made a motion to adopt the order. Mr. Montoya seconded. Motion passed 3-0 and order was approved.

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

Ms. Kountz appeared on behalf of the City of Albuquerque and stated that Mr. Gutierrez submitted a motion to continue and she did not oppose to the continuance, however she opposed on any extension of time for Mr. Gutierrez to respond because his respond was due by August 5, 2014.

Chairman Halter moved to continue this matter for September 26, 2014. Ms. Chappell seconded. Motion passed 3-0.

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

Melissa Kountz appeared on behalf of the City of Albuquerque and stated that Mr. Gutierrez submitted a motion to continue and she did not oppose to the continuance.

Chairman Halter made a motion to continue this matter for September 26, 2014. Mr. Montoya seconded. Motion passed 3-0.

**X. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**

Order to Dismiss was submitted on behalf of the Respondent's Motion to Strike that was previously granted by the Board.

Chairman Halter made a motion to adopt the Order to Dismiss. Ms. Chappell seconded. Motion passed 3-0.

**XI. SCHEDULING FOR HEARINGS**

- **LB 14-10 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S AVIATION DEPARTMENT FOR FAILURE TO NEGOTIATE TERMS AND CONDITIONS OF EMPLOYMENT. (CASEY PADILLA, AFSCME LOCAL 624)**

Ms. Kountz appeared on behalf of the City and stated that the Union filed a More Definite Statement in response to the Board's order based on City's motion of what policies and procedures were violated of the collective bargaining unit. She said that the Union gave the City a printout of the policies and it has hand written, hard to read notes and did not point out the specific contract violations. She verbally moved to strike and moved to dismiss.

Mr. Montalbano appeared on behalf of the Union and requested more time to speak with Mr. Gutierrez to go over this matter and he will be prepared at next meeting.

Chairman Halter requested that the Union submit sites of violations of the collective bargaining agreement by September 26, 2014.

Matter continued to September 26, 2014.

- **LB 11-15 PROHIBITED PRACTICE COMPLAINT ON BEHALF OF AFSCME LOCAL 624, 1888, 2962 AND 3022 AGAINST THE CITY OF ALBUQUERQUE FOR FAILING TO BARGAIN IN GOOD FAITH. (ROCKY GUTIERREZ, AFSCME)**  
Ms. Hults appeared on behalf of the City and stated that this case is similar to a lawsuit that is pending in District Court regarding the evergreen provisions and that the City has prevailed on that case. She stated that the City is not ready for a hearing and requested more time to submit a Motion for Dismissal.

This matter will be continued to a future date.

- **LB-ARB 11-01 REQUEST FOR ARBITRATION OF CONTRACT IMPASSE. (ROCKY GUTIERREZ, AFSCME LOCAL 2962)**
- **LB-ARB 11-02 REQUEST FOR ARBITRATION OF CONTRACT IMPASSE. (ROCKY GUTIERREZ, AFSCME LOCAL 1888)**
- **LB-ARB 11-03 REQUEST FOR ARBITRATION OF CONTRACT IMPASSE. (ROCKY GUTIERREZ, AFSCME LOCAL 624)**  
Ms. Hults appeared on behalf of the City. Mr. Montalbano appeared on behalf of AFSCME. Ms. Hults stated that these matters have been consolidated with LB 11-23. She stated that there is a pending motion for reconsideration from the Labor Board.

Chairman Halter requested that the motion be provided to the Board and the Union will be given thirty days to respond to the motion once it has been received.

## **XII. SCHEDULING OF PENDING CASES.**

Chairman Halter stated that Fred Mowrer on behalf of APOA, has submitted a list of cases to be heard and those cases will be scheduled for the September 26' 2014 meeting.

Ms. Hults stated that the City is prepared to proceed on September 26<sup>th</sup> with the hearing in LB 08-35.

## **XIII. ISSUANCE OF BOARD DECISION IN LB 12-34 AND LB 13-03.**

Ms. Hults appeared on behalf of the City and an Order to the Board that she and Fred Mowrer have been working on.

A clean copy of the finalized Order will be submitted to the Board for their review and approval by September 26, 2014.

## **XIV. MERITS HEARING**

- **LB 13-24 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS. (FRED MOWRER, APOA)**  
Chairman Halter made a motion to approve the Motion to Continue submitted by Mr. Mowrer. Mr. Montoya seconded. Motion passed 3-0.

## **XV. ADJOURNMENT.**

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and meeting was adjourned at 9:38 a.m.

## **APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday August 18, 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*      *Mary Scott*  
*Samantha Hults*      *Marcus Garcia*  
*Melissa Kountz*      *Debbie Rainaldi*  
*Jessica Enriquez*      *James Montalbano*

### ***MINUTES***

**I. CALL TO ORDER.**

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

**II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, AUGUST 18, 2014.**

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

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JULY 25, 2014.**

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

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

No public comments.

**V. LB 10-02, REVIEW OF THE NOTICE OF PRESENTMENT OF ORDER SUBMITTED BY MARCUS GARCIA ON BEHALF OF PETITIONERS.**

Marcus Garcia appeared on behalf of petitioners and stated that the Presentment of Order is on a Motion that was filed and granted. He stated that there should be one Order on the Motion for Entry of Order and another Order for entry that denied the Motion for reconsideration. Therefore, there should be two Orders entered.

Samantha Hults, Assistant City Attorney stated that there is already an Order denying the petitioners Motion to Reconsider which closes and ends this matter and petitioners have already filed a Notice of Appeal in District Court. She stated that the time is already running for deadline on the District Court Appeal.

Chairman Halter made a motion to take no further action on this case. Susan Chappell seconded. Motion passed 3-0.

**VI. LB 11-06, REVIEW OF CITY'S AMENDED ANSWER AND POSITION STATEMENT. (AFSCME LOCAL 2962)**

Debbie Rainaldi appeared on behalf of AFSCME and stated that this case is assigned to Rocky Gutierrez who was out sick and requested a continuance on his behalf.

Ms. Hults appeared on behalf of the City and stated that the City is prepared to proceed with a hearing.

Chairman Halter stated that this matter will be rescheduled for the next Board meeting on September 5, 2014.

**VII. LB 10-14, REVIEW OF CITY'S MOTION FOR SUMMARY JUDGMENT OF PPC. (AFSCME LOCAL 1888)**

Rescheduled to September 26, 2014.

**VIII. LB 11-11, REVIEW OF CITY'S MOTION FOR SUMMARY JUDGMENT AND PETITIONER'S RESPONSE THERETO. (AFSCME LOCAL 624)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the City and stated that at the last the meeting the Board ordered petitioners to submit a written response by August 5, 2014. The Union has not submitted a response and she asked the Board to consider the City's Motion.

Chairman Halter stated that the Board has not received a written response and matter is rescheduled for September 5, 2014.

**IX. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**

Chairman Halter presented an Order Granting the City's Unopposed Motion to Vacate LB 11-13 that was submitted by the parties. Matter was scheduled for a merits hearing, see item XII. Mr. Halter made a motion to grant the Order. Ms. Chappell seconded. Motion passed 3-0. The parties will discuss a date to reschedule.

**X. SCHEDULING OF PENDING CASES**

- **LB 11-38 STEP III GRIEVANCE ON BEHALF OF ALBUQUERQUE POLICE DEPARTMENT COURT SERVICES EMPLOYEES, WORKING OUT OF CLASSIFICATION (DEB RAINALDI, AFSCME LOCAL 2962)**

Ms. Hults appeared for the City and asked the Board to schedule a date later in December 2014.

Matter tentatively scheduled for December 1, 2014.

**XI. LB 14-01, REVIEW OF BARGAINING UNIT IN AFSCME LOCAL 3022 AND THE CITY OF ALUQUERQUE. (JAMES MONTALBANO, AFSCME LOCAL 3022)**

James Montalbano appeared on behalf of AFSCME stated that the Union and the City has had their sixth mediation session and still working on their list. He asked the Board to place item on the next meeting agenda for status and merits hearing can be scheduled for October.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City and stated that Ms. Nichols will be leaving the city and she will take over this case.

Item will be placed on next agenda for status and a merits hearing October 13, 2014.

**XII. MERITS HEARING**

- **LB 11-13 PROHIBITED PRACTICE COMPLAINT (LMRO 3-2-9) ON BEHALF OF AFSCME LOCAL 624, EMPLOYEE JASON ARAGON WITHIN DEPARTMENT OF MUNICIPAL DEVELOPMENT, EMPLOYEE ASSISTANCE PROGRAM. (ROCKY GUTIERREZ, AFSCME LOCAL 624)**

Matter will be rescheduled for a future date. See item IX.

**XIII. ADJOURNMENT.**

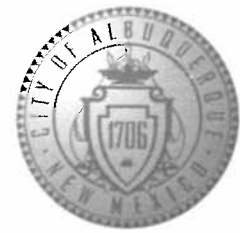
Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed and meeting was adjourned at 9:31 a.m.

**APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Thursday July 25, 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*      *Mary Scott*  
*Melissa Kountz*      *Marcus Garcia*  
*Jessica Enriquez*

### **MINUTES**

**I. CALL TO ORDER.**

Chairman Halter called meeting to order at 9:04 a.m., all members were present.

**II. REVIEW AND APPROVAL OF AGENDA FOR THURSDAY JULY 25, 2014.**

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

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JULY 10, 2014.**

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

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

Marcus Garcia, Attorney in the matter of LB 10-02 requested that the Notice of Presentment and Order he filed get placed on the next meeting agenda.

Melissa Kountz, Assistant City Attorney for the City of Albuquerque stated that the Board has already signed a Final Order and that signing another Final Order would be silly.

Rocky Gutierrez appeared on behalf of AFSCME Council 18 and discussed the priority list that was handed out to the Board members and all persons present. He stated that the list was the same list that was issued to the Board on May 14, 2012 and that he would submit a new list by the following Monday.

Ms. Kountz stated that two cases on the priority list have pending Motions of Summary Judgment from the City.

Chairman Halter stated that once the Motions are received by the City then they will be placed on an upcoming agenda for review

**V. LB 14-06, REVIEW OF STIPULATED MOTION TO DISMISS. (FRED MOWRER, IAFF)**

Chairman Halter stated that the Motion was presented to the Board at the last meeting but was not signed because it was not an item on the agenda.

Rebecca Wardlaw, Assistant City Attorney suggested a standing agenda item for review and approval of Stipulated Motions and Orders.

Chairman Halter and Doris Duhigg agreed with Ms. Wardlaw.

Chairman Halter made a motion to approve the Stipulated Order of Dismissal. Mr. Montoya seconded. Motion passed 3-0.

**VI. LB 14-07, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT AND MOTION TO DISMISS OR ALTERNATIVELY SUMMARY JUDGEMENT AND PETITIONER'S RESPONSE THERETO. (AFSCME LOCAL 1888)**

Mr. Gutierrez stated that Mr. Anaya is on FMLA leave and he advised him of the consequences of the Board dismissing the matter if he did not appear to argue the case. He also stated that the Union did not assign the case over to him.

Chairman Halter stated that no contact has been received from Mr. Anaya

Ms. Kountz stated that the City had not received any contact or updates to the case from Mr. Anaya. She made a verbal Motion to Dismiss.

Chairman Halter made a motion to dismiss. Ms. Chappell seconded. Motion passed 3-0.

Ms. Kountz will draft an Order to Dismiss for the Board to sign.

**VII. LB 10-17, REVIEW OF CITY'S MOTION TO DISMISS AND PETITIONER'S RESPONSE THERETO. (AFSCME LOCAL 1888)**

Ms. Kountz stated that the City Motion's to Strike because the Union had a deadline of 7-10 days to file their response and the response was just received yesterday. The City moved to dismiss the case because it has been almost four years and there is not much relief to provide to Ms. Wagner because Mr. Martanali has retired.

Mr. Gutierrez on behalf of the Union stated that he understood that the response was due July 25<sup>th</sup>. He presented a verbal response and argued that there was violence in the work place and comments were made in public by Mr. Martanali to Ms. Wager and that was a violation of the collective bargaining agreement and the labor management relations ordinance. He stated that this case was filed in 2010 and was never dealt with because the City's investigation never occurred.

Ms. Kountz responded and said that this was a single action that occurred in 2010 and if there was this continued behavior then there would be more complaint's filed. She stated that the Board jurisdiction is limited to violations of the labor management relations ordinance.

Chairman Halter made a motion to dismiss LB 10-17. Ms. Chappell seconded. Motion passed 3-0.

**VIII. LB 14-05, ISSUANCE OF BOARD DECISION. (PAUL LIVINGSTON, NMTU)**

Chairman Halter made a motion to approve and sign Order to Dismiss. Ms. Chappell seconded. Motion passed 3-0.

**IX. MERITS HEARING**

- **LB 13-24 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS. (FRED MOWRER, APOA)**

Mr. Mawrer appeared on behalf of APOA and presented a Stipulated Motion to Continue.

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

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

**APPROVED:**

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

8-18-2014  
**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Thursday, July 10, 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  
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.

www.cabq.gov

#### **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



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, June 16, 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:

*Kevin Curran      Rocky Gutierrez  
Rebecca Wardlaw      James Montalbano  
Melissa Kountz      Leland Churan  
Stevie Nichols      Dynette Cordova  
Kathy Levy      Jessica Enriquez  
Mary Scott*

### MINUTES

PO Box 1293

#### **I. CALL TO ORDER.**

Chairman Patrick Halter called meeting to order at 9:15 a.m., all members were present.

Albuquerque

#### **II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JUNE 16, 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 MAY 15, 2014.**

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

www.cabq.gov

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

Chairman Halter stated that the future Labor Board meetings dates will be scheduled for June 30, 2014; July 10, 2014; July 25, 2014; August 18, 2014; September 5, 2014 and September 26, 2014.

Melissa Kountz, Assistant City Attorney for the City and stated that the Union and the City have agreed to a Motion for Summary Judgment that will be presented at the June 30, 2014 Board meeting and a merit hearing will be scheduled for a future date.

Rocky Gutierrez appeared on behalf of AFSCME and stated that the Union does not object to the Motion for Summary Judgment.

#### **V. LB 10-01, REVIEW AND APPROVAL OF THE STIPULATED ORDER OF DISMISSAL. (AFSCME LOCAL 624)**

Ms. Kountz appeared on behalf of the City and Mr. Gutierrez appeared on behalf of AFSCME. They both stated that the parties have stipulated to the Dismissal.

Chairman Halter made a motion to approve the Stipulated Motion of Dismissal. Mr. Montoya seconded. Motion passed 3-0.

**VI. LB 09-25, REVIEW AND APPROVAL OF THE STIPULATED ORDER OF DISMISSAL. (AFSCME LOCAL 624)**

Ms. Kountz appeared on behalf of the City and Mr. Gutierrez appeared on behalf of AFSCME. They both stated that the parties have stipulated to the Dismissal.

Chairman Halter made a motion to approve the Stipulated Motion of Dismissal. Susan Chappell seconded. Motion passed 3-0.

**VII. LB 12-34, REVIEW OF CITY'S AMENDED MOTION TO DISMISS. (FRED MOWRER, IAFF)**

Stevie Nichols, Assistant City Attorney appeared on behalf of City and presented the City's Motion to Dismiss and presented the case history. She stated that the City did not violate the collective bargaining agreement when Mr. Montano and Mr. Jaramillo held a meeting on November 8, 2012 with Adam Anaya and did not allow him representation because it was not necessary to discuss his job duties and work schedule.

Fred Mowrer, APOA appeared on behalf of Adam Anaya and stated that the Union argued that the City violated the CBA contract when they denied Mr. Anaya his right to representation when he requested it at the November 8, 2012 meeting with his supervisors. Mr. Mowrer stated that relief has been sought to Mr., Anaya but requests that the Board issue an Order to find that an employee must be granted the right to representation when requested.

Chairman Halter made a motion to enter closed session. Ms. Chappell seconded. Motion passed 3-0.

Closed session concluded. Chairman Halter made a motion to deny the City's Motion to Dismiss. Mr. Montoya seconded. Motion passed 2-1.

Case proceeded to a merits hearing, see item XII.

**VIII. LB 13-03, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL. (FRED MOWRER, APOA)**

Ms. Nichols appeared on behalf of the City and presented the City's Motion to Dismiss the prohibited practice complaint.

Mr., Mowrer appeared on behalf of Adam Anaya and presented the Union's argument that Mr. Anaya was assigned to the fire arm range when he returned from military leave and kept there for longer than the 45 days allowed per the CBA.

Chairman Halter made a motion to deny the City's Motion to Dismiss. Mr. Montoya seconded. Motion passed 2-1.

**IX. LB 14-06, REVIEW OF THE STIPULATED MOTION TO DISMISS. (FRED MOWRER, IAFF LOCAL 244)**

Mr. Mowrer appeared on behalf of IAFF and Ms. Nichols appeared on behalf of the City of Albuquerque. Parties have settled the case and the City will provide a Supplemental Order to the Board.

**X. 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 Gerard Anaya was the person who filed the Complaint but he was unavailable for the meeting, therefore the Union requested a continuance to allow Mr. Anaya to appear for the case.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that the city was prepared to proceed.

Chairman Halter granted the continuance and the case will be rescheduled to June 30, 2014.

**XI. STATUS REPORT**

- **LB 14-01 COMPLAINT AGAINST THE CITY OF ALBUQUERQUE ON BEHALF OF AFSCME LOCAL 3022 FOR NON-NEGOTIATION OF THE BARGAINING UNIT FOR E AND M SERIES EMPLOYEES. (LEE WHISTLE AFSCME COUNCIL 3022)**

James Montalbano with Youtz and Valdez appeared on behalf of AFSCME Local 3022, and stated that the parties have met and continue to mediate as requested by the Board. He asked the Board to schedule case for a merit hearing in July.

Ms. Nichols appeared on behalf of the City of Albuquerque and stated that a list of disputed positions will be submitted to the Board.

Chairman Halter stated that the case will be set for status on July 10, 2014.

**XII. MERITS HEARING**

- **LB 12-26 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**

Kathy Levy, Assistant City Attorney appeared on behalf of the City. Fred Mowrer appeared on behalf of APOA. A Stipulated Motion to Continue was filed.

Chairman Halter granted the Stipulated Motion to Continue and advised parties to discuss a date to reschedule.

- **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)**

Merits hearing for consolidated cases LB 12-34 and LB 13-03. Fred Mowrer appeared on behalf of APOA and the grievant Adam Anaya. Mr. Anaya was sworn in and called to testify. He testified that he left his position with the City of Albuquerque on leave of absence for military deployment in October 2010 and returned to work with the City of Albuquerque September 22, 2012. Prior to leaving he was working a 4 day 10 hour shift schedule and when he returned was placed on a 5 day 8 hour work schedule. He was also not placed back to his original position as an Instructor of the Police Academy but instead placed to work at the Albuquerque Police Fire Arm Range. He stated that he was placed at the range for more than 45 days which is a violation, and after sending an email to his supervisor Mr. Montano and had not received a response in 13 days he sent an email to Mr. Wolf and also received no response. He then went up the chain of command and sent an email to the deputy Chief. A meeting was held in November 2012 with Mr. Montano, Mr. Jaramillo and Mr. Anaya and when he was told it was going to be recorded he requested representation and was denied his right by Mr. Montano. He then was told that an Internal Affairs investigation was being processed and he filed a Complaint with the Department of Labor,

Stevie Nichols appeared on behalf of the City and called to testify APD Lieutenant Anthony Montano, APD Sergeant David Jaramillo and Karen Salazar the department Payroll Coordinator. Mr. Montano stated that when the meeting was held in November 2012, an Internal Affairs investigation was already pending regarding Mr. Anaya but the meeting had

nothing to do with that investigation. He stated that he did record the meeting for his personal reasons but then Internal Affairs requested the recording from him. Mr. Jaramaillo stated that he initiated the Internal Affairs investigation when the email sent from Mr. Anaya to Deputy Chief Wolf was sent back down the chain of command to him and he was told to deal with the matter. Ms. Salazar stated that she knew Mr. Anaya because of her position with the department and that typically all positions are 5 day 8 hour works scheduled.

Chairman Halter ordered parties to submit closing arguments by Monday, June 24, 2014. He made a Motion to adjourn the meeting. All Board members were in favor. Meeting was adjourned.

- **LB 13-24 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS (FRED MOWRER, APOA)**

Ms. Levy and Mr. Mowrer agreed to a continuance for a merits hearing.

Chairman Halter granted a continuance.

**XIII. SCHEDULING OF PENDING CASES.**

- **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)**

Rebecca Wardlaw, Assistant City Attorney appeared on behalf of the City. There was no one present for NMTU.

Chairman Halter continued the case for June 30, 2014 for standing argument.

Chairman Halter made a motion to adjourn. All Board members were in favor. Meeting was adjourned.

**APPROVED:**

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

*July 10, 2014*  
\_\_\_\_\_  
**DATE**

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



## 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:**

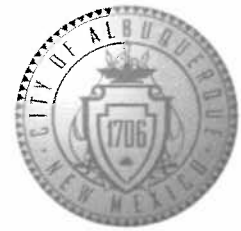
*Patrick Halter*

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

*6.16.2014*

**DATE**

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



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, April 14, 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*  
*Mary Scott*  
*James Montalbano*  
*Lee Whistle*  
*Stevie Nichols*

### **MINUTES**

**I. CALL TO ORDER.**

Chairman Halter called meeting to order at 9:07 a.m., all members were present.

**II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, APRIL 14, 2014.**

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

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

Chairman Halter stated that item XIV was a decision issued for LB 10-22 but the correct case number of the decision is LB 10-20. He stated that he will get with Doris Duhigg to discuss if a new decision has to be reissued. The correct number for the decision is LB 10-20.

Chairman Halter made a motion to approve minutes with amendment. Susan Chappell seconded. Passed 3-0.

**IV. BOARD REVIEW OF THE RECORD IN AFSCME LOCAL 3022 AND CITY OF ALBUQUERQUE, IN CASE LB 14-01.**

Chairman Halter stated that the Board received written closing statements from the parties. He made a motion to go into closed session for consideration of the decision in LB 14-01. Mr. Montoya seconded. Passed 3-0.

Closed session concluded at 10:05 a.m. Chairman Halter made a motion to return to open session. Ms. Chappell seconded. Passed 3-0.

Chairman Halter stated that based upon the list submitted by Darlene Herrera and the evidence, the Board was unable to make a decision. He made a motion to direct parties to meet and engage with federal mediation services within the next 60 days. He ordered parties to submit three stipulated lists; one will be a list of who is in the bargaining unit, second list of who is not in the bargaining unit and the third list of who they cannot agree is in or out of the bargaining unit. The lists are due no later than June 14, 2014. Second part of his motion is that the documents submitted into the record should be provided for parties to come up with the list.

The third part of the motion is that once the Board has received the three lists, the Board will apply the ordinance to make a decision on the disputed list. Mr. Montoya seconded. Motion passed 3-0.

This matter will be rescheduled for the June 16, 2014 Labor Board meeting.

**V. ADJOURNMENT**

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

**APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



**LABOR-MANAGEMENT RELATIONS BOARD**  
***Wednesday, March 26, 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:**

<i>Doris Duhigg</i>	<i>Rocky Gutierrez</i>
<i>Rebecca Wardlaw</i>	<i>Fred Mowrer</i>
<i>Samantha Hults</i>	<i>James Montalbano</i>
<i>Melissa Kountz</i>	<i>Lee Whistle</i>
<i>Stevie Nichols</i>	<i>Steve Higgins</i>

***MINUTES***

**I. CALL TO ORDER.**

Chairman Halter called meeting to order at 9:10 a.m., all members were present.

**II. REVIEW AND APPROVAL OF AGENDA FOR WEDNESDAY, MARCH 26, 2014.**

Chairman Halter moved to approve the agenda for Wednesday, March 26, 2014. Susan Chappell seconded. Agenda approved 3-0.

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR FEBRUARY 19, 2014.**

Chairman Halter moved to approve the Labor board minutes for February 19, 2014. Juan Montoya seconded. Minutes approved 3-0.

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

None.

**V. LB 14-02, REVIEW OF PETITIONER'S MOTION TO AMEND PPC.**

Frederick Mowrer appeared on behalf of APOA and stated that he spoke with Samantha Hults on behalf of Kathy Levy and she has stated that she has no opposition to the Motion to Amend the PPC.

Samantha Hults on behalf of the City of Albuquerque and Kathy Levy stated that Ms. Levy does not oppose the amendment.

**VI. LB 11-16, REVIEW OF PARTIES' JOINT MOTION FOR DISMISSAL OF PPC.**

Ms. Hults appeared on behalf of the City of Albuquerque and stated that the matter has been settled.

Chairman Halter made a motion to dismiss the case. Ms. Chappell seconded. Passed 3-0.

- VII. LB 12-31, REVIEW OF CITY'S AMENDED ANSWER AND POSITION STATEMENT.**  
Melissa Kountz appeared on behalf of the City of Albuquerque and stated that the parties have reached an agreement on several items. She requested for cases LB 12-31, LB 12-23 and LB 13-28 be placed on the agenda for April 30, 2014, allowing the Union more time to respond to these cases by April 30<sup>th</sup>. She stated that if the Union does not respond to these cases by April 30<sup>th</sup> then the cases will be jointly dismissed. She stated that the parties have agreed to dismiss LB 13-17, LB 13-26 and LB 13-25.

Rocky Gutierrez appeared on behalf of AFSCME Local 624 stated that it is correct.

Chairman Halter stated that the responses from the Union are due April 30<sup>th</sup>.

Ms. Hults suggested that the Union submit a written document withdrawing their cases.

- VIII. LB 12-23, REVIEW OF CITY'S MOTION FOR MORE DEFINITE STATEMENT.**  
Case continued. See item VII.

- IX. LB 13-17, REVIEW OF CITY'S MOTION TO DISMISS.**  
See item VII.

- X. LB 13-26, REVIEW OF CITY'S MOTION TO DISMISS.**  
See item VII.

- XI. LB 13-25, REVIEW OF CITY'S MOTION TO DISMISS.**  
See item VII.

- XII. LB 13-22, REVIEW OF THE PARTIES' STIPULATED MOTION TO DISMISS.**  
Mr. Mowrer appeared on behalf of IAFF stated that an Order to dismiss has been presented.

Rebecca Wardlaw on behalf of the City of Albuquerque stated that the parties have agreed to dismiss the matter.

- XIII. LB 13-28, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL.**  
See item VII.

- XIV. REVIEW OF AFSCME'S AMENDED NOTICE OF DISMISSAL IN LB 05-02, LB 11-14 AND LB 11-28.**  
Mr. Gutierrez stated that a notice to withdrawn was entered to withdraw all three cases.

- XV. REVIEW OF CITY'S MOTION TO ADMINISTRATIVELY CLOSE LB 05-02.**  
See item XIV.

- XVI. ISSUANCE OF BOARD'S WRITTEN DECISION IN LB 10-22.**  
Chairman Halter made a motion to adopt the decision. Ms. Chappell seconded. Passed 3-0.

- XVII. NEW BUSINESS.**  
Chairman Halter stated that he will include some older cases that are pending on the May agenda.

Ms. Wardlaw stated that the City has provided a list to Jessica Enriquez of their pending cases. She suggested that Jessica should go thru the old minutes because some cases may be closed and are just listed as open.

Chairman Halter suggested putting all of IAFF pending cases on an agenda to be heard.

Doris Duhigg asked if there have been any potential names for a Chair nominee.

Mr. Mowrer on behalf of APOA and IAFF stated that he has spoken to District Court Judge Ted Baca who has showed interest in being considered for the Board.

**XVIII. SCHEDULING OF CASES FOR LABOR BOARD MEETINGS ON APRIL 14, APRIL 30, MAY 15, JUNE 16 AND JUNE 30.**

Ms. Hulst stated that the City has trial on April 14<sup>th</sup> and will not be available.

Chairman Halter stated that an agenda may still be published for April 14<sup>th</sup> and will cancel the meeting so that parties have notice of the items.

Mr. Mowrer stated that he will submit a list to staff of his cases that need to be heard.

**XIX. MERITS HEARING.**

- LB 14-01 COMPLAINT AGAINST THE CITY OF ALBUQUERQUE ON BEHALF OF AFSCME LOCAL 3022 FOR NON-NEGOTIATION OF THE BARGAINING UNIT FOR E AND M SERIES EMPLOYEES (LEE WHISTLE, AFSCME Council 3022). James Montalbano appeared on behalf of AFSCME Local 3022 and called two witnesses to testify, Lee Whistle and Steve Higgins. Stevie Nichols Assistant City Attorney appeared on behalf of the City of Albuquerque and called to testify two witnesses, Vince Yermal and Darlene Herrera.


Testimony and statements were made by the parties regarding the Collective Bargaining Agreement referring to E and M series employees. They discussed issues of the Union and the City not being able to reach an agreement after several years of discussing the E and M series employees.

Chairman Halter stated that the Board will meet on April 14, 2014 to review and discuss this case. He requested that the parties submit closing arguments within a week.

**XX. ADJOURNMENT**

Chairman Halter moves to adjourn the meeting. Susan Chappell seconded. Approved 3-0.

**APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



**LABOR-MANAGEMENT RELATIONS BOARD**  
***Wednesday, February 19, 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:**

<i>Doris Duhigg</i>	<i>Rocky Gutierrez</i>
<i>Samantha Hults</i>	<i>Vanessa F. King</i>
<i>Fred Mowrer</i>	<i>Mary Scott</i>
<i>Shane Youtz</i>	<i>Tasha Smalls</i>
<i>Melissa Kountz</i>	<i>Linda Huckles</i>
<i>Steven Chacon</i>	<i>Genaro Tafoya</i>
<i>Frank Gonzales</i>	<i>Abe Trujillo</i>
<i>Jimmy Padilla</i>	<i>William Bushard</i>
<i>Arthur Silva</i>	

PO Box 1293

***MINUTES***

- |              |   |
|--------------|---|
| Albuquerque  | <b>I. CALL TO ORDER.</b><br>Chairman Halter called meeting to order at 9:02 a.m., all members were present.   |
| NM 87103     | <b>II. REVIEW AND APPROVAL OF AGENDA FOR WEDNESDAY, FEBRUARY 19, 2014.</b><br>Chairman Halter moved to approve the agenda for Wednesday, February 19, 2014. Juan Montoya seconded. Agenda approved 3-0.   |
| www.cabq.gov | <b>III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JANUARY 27, 2014.</b><br>Chairman Halter moved to approve the Labor board minutes for January 27, 2014. Susan Chappell seconded. Minutes approved 3-0.   |
|              | <b>IV. PUBLIC COMMENTS *Limited to three (3) minutes total time per person.</b><br>None.  |
|              | <b>V. LB 11-37 REVIEW OF PARTIES' JOINT MOTION TO DISMISS PPC.</b><br>Samantha Hults appears on behalf of the City of Albuquerque and states that the parties have met and agreed to dismiss the PPC. Chair Halter moves to accept joint motion to dismiss. Susan Chappell seconded. Approved 3-0.  |
|              | <b>VI. LB 11-40 REVIEW OF PARTIES' JOINT MOTION TO DISMISS PPC.</b><br>Samantha Hults appears on behalf of the City of Albuquerque and states that the parties have met and agreed to dismiss the PPC. Chair Halter moves to accept joint motion to dismiss. Susan Chappell seconded. Approved 3-0. |

**VII. CONSIDERATION OF IRA BOLNICK AS PROSPECTIVE NOMINEE FOR CHAIRMAN.**

Susan Chappell moves to nominate and accept Ira Bolnick as neutral member. Shane Youtz and Fred Mowrer appear on behalf of the Unions and expresses that although they have respect for Mr. Bolnick they oppose the nomination. Samantha Hultz stated that there is no opposition for the appointment of Mr. Bolnick on behalf of the City of Albuquerque. Juan Montoya expresses that he cannot second the motion to nominate Ira Bolnick after the Union opposition comments were made because he is the Board labor representative. Doris Duhigg asks for suggested names from the Unions and the City of Albuquerque for a neutral member to be provided to the Board. Mr. Blonick appears after discussion. Chairman Halter explains that there was no second for the motion to accept him as a neutral and advises that names will be submitted.

**VIII. REVIEW OF CITY'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT AND CONSIDERATION OF AFSCME'S ADDITIONAL INFORMATION OR STATEMENT IN LB 11-14.**

Samantha Hults appears on behalf of the City of Albuquerque. Rocky Gutierrez appeared on behalf of AFSCME Local 624 and states that the matter has been settled. Parties will submit closing documents.

**IX. REVIEW OF PPC AND RESPONDENTS' ANSWERS/RESPONSES THERETO IN LB 10-22.**

Samantha Hults appears on behalf of the City of Albuquerque and states that the matter involves an agreement between the City of Albuquerque and AFSCME 3022. She states that the City reclassified M-Series employees to E-Series employees and that AFSCME Local 3022 was the collective bargaining union. Both AFSCME and the City agreed to reclassify those employees back to M-Series but some employees remain unhappy. Mrs. Hults states that the City cannot negotiate with employees individually if they have a bargaining union or counsel and asks that the matter be dismissed because there is a settlement, claims are moot and that there no issues for Board to make a determination. Rocky Gutierrez appears on behalf of AFSCME and explains that the employees are members of AFSCME 3022 but hired Paul Livingston as counsel, therefore making the Union is a third party to the case. Parties ask for representative clarification. Frank Gonzales appears *pro se* and for the other supervisors, and explains that there were nine (9) supervisors who were changed from M-Series to E-Series with different pay steps. When they were reclassified back to the M-Series they were placed at lower pay steps. They went to Human Resources and were told that they had been changed and claim there was not any notification. This created a problem for them because they were not allowed to get pay raises that the M-Series received and brought them down in pay steps. Mr. Gonzales tries to submit documents. Samantha Hults objects to documents. Mr. Gonzales explains that he went to numerous City departments to fix the problem but did not get assistance. They then hired Paul Livingston. However, they are no longer represented and represent themselves. The supervisors also discuss that they were forced back into the Union and requests that they receive their previous classification and steps. Genaro Tafoya appears *pro se* and for the other supervisors and explains his similar issue with different pay steps. Rocky Gutierrez explains that Lee Whistle, who is not present and is the President of AFSCME 3022, has the agreement. Samantha Hults discusses that an agreement was made by AFSCME and believes it's an internal dispute amongst members. Mr. Gonzales explains they are not union members and have never signed union cards or voluntarily paid dues. William Bushard appears *pro se* and for the other supervisors and explains that they spoke to Darlene Herrera with Human Resources to file a grievance regarding the movement but were told they could not file a grievance. They then went to the Union to ask to file a grievance and were told they couldn't file

They then went to the Union to ask to file a grievance and were told they couldn't file because the supervisors were non-union members. They then hired Paul Livingston and the matter as heard by Judge Huling in District Court, she remanded the case back to the Labor Board but the Board was non-functional. The supervisors claim that AFSCME said they could represent them and then received a call shortly after stating that there was an agreement with the City and the Union for the positions. Chairman Halter moves to go into closed session. Juan Montoya seconded. Closed session approved 3-0.

Chairman Halter moves to return to open session and explains that only matters were discussed during closed session was pertaining to LB-10-22. Susan Chappell seconded. Returned to open session approved 3-0.

Chairman Halter moves that the Board finds that on October 16, 2009 AFSCME 3022 signed an agreement with the City of Albuquerque resolving the issues brought forward in LB-10-22 and that the Board does not have jurisdiction or authority to resolve a membership dispute. Susan Chappell seconded. Matter approved 3-0. Chairman Halter clarifies that the Board will issue an order to dismiss and advises supervisors that they may appeal the decision to District Court.

Abe Trujillo appeared *pro se* and for the other supervisors and questioned pay and retirement issues. Chairman Halter explains that he will be included in the appeal.

**X. NEW BUSINESS.**

None.

**XI. MERITS HEARING.**

- LB 09-33 PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE AND THE CITY OF ALBUQUERQUE'S TRANSIT DEPARTMENT FOR CONTRACT VIOLATIONS (STEVEN R. GRIEGO, AFSCME LOCAL 624)  
Melissa Kountz appeared for the City of Albuquerque. Rocky Gutierrez appeared on behalf of AFSCME Local 624. Parties agreed that they have settled the matter and will submit closing documents.

**XII. ADJOURNMENT**

Chairman Halter moves to adjourn the meeting. Susan Chappell seconded. Approved 3-0. Adjourned at 10:11 a.m.

**APPROVED:**

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

  
\_\_\_\_\_  
**DATE**

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



**LABOR-MANAGEMENT RELATIONS BOARD**  
***Monday, January 27, 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:**

<i>Doris Duhigg</i>	<i>Rocky Gutierrez</i>
<i>Samantha Hults</i>	<i>Jessica Enriquez</i>
<i>Rebecca Wardlaw</i>	<i>Fred Mowrer</i>
<i>Kathryn Levy</i>	<i>Marcus Garcia</i>
<i>Stevie Nichols</i>	<i>Diego Arencon</i>
<i>Mary Scott</i>	<i>Frank Gonzales</i>
<i>Karl Isselhard</i>	<i>Genaro Tafoya</i>
<i>Art Garcia</i>	<i>James Montalbano</i>
<i>Anita Basi</i>	

PO Box 1293

***MINUTES***

Albuquerque

NM 87103

www.cabq.gov

**I. CALL TO ORDER.**

Meeting was called to order at 9:02 am. All Board Members were present.

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

Chairman Halter made a Motion to Amend Agenda to include a new item for new business for the January 27, 2014 Labor Board Meeting. Juan Montoya seconded. Passed 3-0.

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR DECEMBER 16, 2013.**

Chairman Halter made a Motion to approve minutes. Susan Chappell seconded. Passed 3-0.

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

Frank Gonzales requested case LB 10-22 be placed on the next Agenda for a hearing.

Chairman Halter stated that this matter will be placed on the Agenda for February.

Genaro Tafoya requested that he also be notified regarding LB 10-22 and that he would provide Jessica, Hearing Monitor with his email address.

**V. LB 05-02, REVIEW OF CITY'S MOTION TO ADMINISTRATIVELY CLOSE.**

Anita Basi, Law Clerk on behalf of the City stated that the union has agreed to drop the case.

Rocky Gutierrez, AFSCME Council 18 stated that other stipulations also went hand in hand with the agreement and that LB 11-28 was also dropped. He stated that the City agreed to allow the Union two weeks to respond to LB 11-14.

Samantha Hults, Assistant City Attorney on behalf of the City stated that there was a deal made between the parties that the Union will provide a response in two weeks so that the case could be placed on the following month's Agenda.

Chairman Halter requested that AFSCME submit a letter to withdraw LB 05-02 and LB 11-28 to close out the cases. He stated that two weeks is granted to allow the Union to respond in LB 11-14, due February 10, 2014.

**VI. LB 09-33, REVIEW OF CITY'S MOTION TO DISMISS.**

Mr. Gutierrez presented that there was a Stipulation by the parties at the last meeting that the Motion would not be filed and that the Complaint would be considered timely by the City.

Ms. Hults responded that the City had received new information and they will investigate the information and file an Amended Answer.

Chairman Halter stated that this matter was dealt with at the December 16, 2013 Labor Board meeting and the City had agreed to accept the Complaint as timely. Case will be scheduled for a hearing for the next month's meeting in February.

**VII. LB 11-28, REVIEW OF THE CITY'S MOTION TO DISMISS PPC.**

Withdrawn. See item V.

**VIII. LB 10-02, REVIEW OF COMPLAINANTS' MOTION TO SET ASIDE AND VACATE ORDER AND CITY'S RESPONSE IN OPPOSITION OF COMPLAINANTS' MOTION TO SET ASIDE AND VACATE ORDER.**

Marcus Garcia, Attorney for Complainants stated that an Order was granted to the City's Motion to Dismiss based on Rules of Civil Procedures 8 and 37. He stated that there is a little dispute as to whether the Rules of Civil Procedure apply. The City did not file its Answer to the PPC for over a year and did not file its Motion to Dismiss for at least two years. He stated that the Rules of Civil Procedure the City have cited do not apply in this case and that the Order should be set aside.

Chairman Halter stated that the case was set for a merits hearing on October 28, 2013 and two extensions were granted to provide time for complainants' to reply to the City's Motion to Dismiss but the complainants' never filed a reply.

Ms. Hults stated that there was an Order granted by the Board in the presence of Mr. Garcia to file a response within 30 days and he never responded and additional time was given. She stated that under Rule 8 of Rules of Civil Procedure, that by not responding to a pleading it is an admission. She stated that Mr. Garcia had adequate time to respond and asked the Board to uphold the City's Motion to Dismiss.

Ms. Chappell made a Motion to deny the Motion to set aside and vacate order.  
Mr. Montoya seconded. Passed 3-0.

**IX. REVIEW OF AMENDED COMPLAINT IN LB 11-21, CITY'S RESPONSE TO AMENDED COMPLAINT AND CITY'S MOTION FOR SUMMARY JUDGMENT.**

Stevie Nichols, Assistant City Attorney of behalf of the City stated that the complaint was filed August 2011 involving David Ortiz and Shawn Sanchez, alleging that the City did not hire the most qualified person per the merits system ordinance. The City then filed a Motion in September 2013 and the Union filed an Amended Complaint in December 2013. Ms. Nichols explained the scoring factors used per the collective bargaining agreement when

qualifying an individual for hire. She stated that the City did not violate neither the CBA nor the LMRO as alleged in the complaint.

Mr. Gutierrez, AFSCME Local 624 stated that all three employees were prequalified and that Mr. Sanchez should have received the promotion. He asked the Board not to grant the Motion and requested a hearing be scheduled.

Mr. Montoya stated that this is a Motion for Summary Judgment.

Ms. Nichols gave a brief explanation of the four factors used and stated that the facts are undisputed.

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

**X. LB 12-04, REVIEW OF RESPONDENT'S MOTION FOR SUMMARY JUDGMENT AND DISMISSAL OF PPC TO INCLUDE NOTICE OF ERRATA.**

Ms. Hulst stated that the PPC states that the City has violated confidentiality by releasing information to the press. She stated that the City has to release public information under the IPRA per the Attorney General's Office. She stated that the Board does not have jurisdiction under IPRA and this is the incorrect venue. She requested the Board deny the PPC.

Fred Mowrer referred to Ordinance 3-2-4 and 3-2-5 and stated that there was no redaction or screening when documents were released as required. He stated that the Board does have jurisdiction to hear the case and should be handled by the Board.

Ms. Hulst stated that State law interpretation belongs in a State court and asked the Board to grant the City's Motion.

Mr. Montoya made a Motion to deny the Motion and proceed with a hearing. No second.

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

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

Ms. Chappell made a Motion to grant the City's Motion to Dismiss. No second.

Chairman Halter made a Motion to deny the City's Motion to Dismiss and set the PPC for a hearing. Mr. Montoya seconded. Passed 2-1.

**XI. LB 13-22, REVIEW OF CITY'S AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL AND REVIEW OF RESPONSE TO AMENDED ANSWER, POSITION STATEMENT, AND MOTION FOR DISMISSAL.**

Mr. Mowrer on behalf of IAFF 244 stated that the parties have agreed to vacate and set the case for a hearing.

Chairman Halter made a Motion to vacate and reset case for a subsequent meeting. Mr. Montoya seconded. Passed 3-0.

**XII. LB 11-14, REVIEW OF CITY'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT OF PROHIBITED PRACTICE CHARGE.**

See item V.

**XIII. SCHEDULING OF CASES FOR HEARING IN LB 10-23, LB 11-44, LB 12-26, LB 12-34, LB 13-11, LB, 13-12, LB 13-23, LB 12-31, LB 13-19 AND LB 13-24.**

Cases LB 11-14, LB 10-22 and LB 09-33 will be on the next month's agenda. Next meeting will be scheduled for February 19, 2014.

**XIV. NEW BUSINESS.**

Doris Duhigg, Assistant City Attorney introduced Ira Bolnick who is interested in taking over Chairman.

Ira Bolnick gave a brief introduction and answered any questions.

Next agenda will include consideration of Ira Bolnick for Chairman.

Chairman Halter stated that all other pending cases under item XIII should be heard by the new Board.

**XV. ADJOURNMENT.**

Chairman Halter made a Motion to adjourn. Ms. Chappell seconded. Passed 3-0.

**APPROVED:**



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



**DATE**

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