



CITY LABOR - MANAGEMENT RELATIONS BOARD

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, DECEMBER 14, 2015,
FOR LACK OF A QUORUM.**

PO Box 1293

Albuquerque

New Mexico 87103

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

www.cabq.gov

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: December 4, 2015



CITY LABOR - MANAGEMENT RELATIONS BOARD

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, NOVEMBER 30, 2015,
FOR LACK OF A QUORUM.**

PO Box 1293

**THE NEXT TENTATIVELY SCHEDULED
MEETING WILL BE
MONDAY, DECEMBER 14, 2015.**

Albuquerque

New Mexico 87103

www.cabq.gov

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: November 16, 2015



CITY LABOR - MANAGEMENT RELATIONS BOARD

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, NOVEMBER 9, 2015,
FOR LACK OF A QUORUM.**

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

**THE NEXT TENTATIVELY SCHEDULED
MEETING WILL BE
MONDAY, NOVEMBER 30, 2015.**

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: October 30, 2015



CITY LABOR - MANAGEMENT RELATIONS BOARD

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, OCTOBER 26, 2015,
FOR LACK OF A QUORUM.**

PO Box 1293

**THE NEXT TENTATIVELY SCHEDULED
MEETING WILL BE
MONDAY, NOVEMBER 9, 2015.**

Albuquerque

New Mexico 87103

www.cabq.gov

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: October 14, 2015



CITY LABOR - MANAGEMENT RELATIONS BOARD

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, OCTOBER 12, 2015,
FOR LACK OF A QUORUM.**

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

**THE NEXT TENTATIVELY SCHEDULED
MEETING WILL BE
MONDAY, OCTOBER 26, 2015.**

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: October 1, 2015



CITY LABOR - MANAGEMENT RELATIONS BOARD

SUSAN CHAPPELL
JUAN MONTOYA

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, SEPTEMBER 28, 2015,
FOR LACK OF A QUORUM.**

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

**THE NEXT TENTATIVELY SCHEDULED
MEETING WILL BE
MONDAY, OCTOBER 12, 2015.**

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: September 21, 2015



CITY LABOR - MANAGEMENT RELATIONS BOARD

SUSAN CHAPPELL
JUAN MONTOYA

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, SEPTEMBER 14, 2015,
FOR LACK OF A QUORUM.**

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

**THE NEXT TENTATIVELY SCHEDULED
MEETING WILL BE
MONDAY, SEPTEMBER 28, 2015.**

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: August 26, 2015



LABOR-MANAGEMENT RELATIONS BOARD
Monday, August 10 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock
Samantha Hults
Melissa Kountz
Kellie Garcia
Irma Gonzalez
Brittany Lopez
Michael Dorin
Patty French
James Montalbano
Fred Mowrer
Rocky Gutierrez

PO Box 1293

MINUTES

Albuquerque

New Mexico 87103

www.cabq.gov

- I. CALL TO ORDER.**
Chairman Patrick Halter called the meeting to order at 9:00 a.m. All members present.
- II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, AUGUST 10, 2015.**
Chairman Halter made a motion to amend the agenda to move LB 13-11, item VII into item V. Susan Chappell seconded. Motion passed 3-0.
- III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JULY 27, 2015.**
Chairman Halter made a motion to approve the minutes for July 27, 2015. Ms. Chappell seconded. Motion passed 3-0.
- IV. PUBLIC COMMENTS *Limited to three (3) minutes total time per person.**
Chairman Halter announced that he is resigning from the Board and his last meeting will be August 24, 2015.
- V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**
Samantha Hults, Assistant City Attorney appeared on behalf of the city and stated that the parties have come to an agreement in LB 13-11. The parties submitted a Stipulated Order of Dismissal. Chairman Halter made a motion to approve the Order. Juan Montoya seconded. Motion passed 3-0.

VI. CONSOLIDATED MATTERS LB 14-11, LB 12-32 AND LB 13-12:

- **AFSCME'S POST HEARING BRIEF AND FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND THE. (James Montalbano, AFSCME)**
- **CITY'S CLOSING ARGUMENT AND BRIEF IN SUPPORT THEREOF IN THE MATTERS CONSOLIDATED LB 14-11, LB 12-32 AND LB 13-12.**

Chairman Halter made a motion for the Board to enter closed session for discussion of LB 14-11, LB 12-32 and LB 13-12 pursuant to section 10.15.1.H.3 of the Open Meetings Act which allows for the closing of meetings for deliberation by a public body in connection with an administrative adjudicatory proceeding as well as another provision from the Open Meetings Act with respect to the threat of litigation as a basis for closed session. Mr. Montoya seconded. A roll call vote was taken and the motion passed 3-0.

Chairman Halter made a motion to return to open session. The meeting had been in closed session pursuant to section 10.15.1.H.3 of the Open Meetings Act. Ms. Chappell seconded. Motion passed 3-0.

Chairman Halter made a motion to approve the Board's Findings of Facts and Order. Mr. Montoya seconded. Motion passed 3-0.

VII. MOTIONS AND ORDERS:

- **LB 13-11, STIPULATED MOTION AND ORDER FOR DISMISSAL. (Fred Mowrer, APOA)**
See item V.
- **LB 07-12, CITY'S SECOND MOTION TO DISMISS AND ORDER OF DISMISSAL. (Rocky Gutierrez, AFSCME)**
Rocky Gutierrez appeared on behalf of AFSCME Local 624. Melissa Kountz, Assistant City Attorney appeared on behalf of the city. The parties stated that they will submit a Joint Motion and Order to Dismiss because this matter has become mute due to involving water authority employees.

VIII. NEW BUSINESS:

- **LB 15-17, STEP III GRIEVANCE ON BEHALF OF SOLID WASTE EMPLOYEE JEROME LOVATO FOR CONTRACT VIOLATION SECTION 0.1, PREAMBLE, 24., INVESTIGATION AND DISCIPLINE, 17.1.2.1. (Patricia French)**
- **LB 15-18, STEP III GRIEVANCE, AFSCME LOCAL 2962 ON BEHALF OF CLERICAL AND TECHNICAL EMPLOYEES WITH THE RECORD/UCR DIVISION OF THE ALBUQUERQUE POLICE DEPARTMENT. (Michael Dorin, AFSCME)**
- **LB 15-19, STEP III GRIEVANCE, AFSCME LOCAL 3022 ON BEHALF OF NICK MANOLE FOR DENYING HIM OVERTIME AND NOT FOLLOWING THE CONTRACT CONCERNING EMPLOYEE'S WORK WEEK, PREAMBLE 0.1, WORK WEEK 11.1.1 AND OVERTIME 2.3. (Patricia French, AFSCME)**
- **LB 15-20, STEP III GRIEVANCE FILED BY AFSCME LOCAL 3022 ON BEHALF OF LORIANN BACA AGAINST THE CITY OF ALBUQUERQUE FAMILY AND COMMUNITY SERVICE DEPARTMENT FOR DENYING HER FLEX TIME LEAVE, 0.1, PREAMBLE, 12, WORK HOURS TO INCLUDE 12.1.2 AND 12.1.5. (Patricia French, AFSCME)**

Chairman Halter stated that these matters will be rescheduled for the new Board to handle.

IX. OLD BUSINESS:

- **LB 08- 10, PROHIBITED PRACTICE COMPLAINT FILED BY AFSMCE LOCALS 624, 3022, 1888 AND 2962. (Shane Youtz)**
- **LB 08-15 VIOLATION OF CONTRACTUAL OBLIGATIONS ON BEHALF OF APOA. (Fred Mowrer)**
- **LB 08-17, PROHIBITED PRACTICE COMPLAINT VIOALTIONS OF THE LABOR-MANAGEMENT RELATION ORDINANCE 3-2-9 (A) 1 AND 2. (Rocky Gutierrez, AFSCME)**
- **LB 08-21, JULIA MOYA, STEP III GRIEVANCE, SECTION 35 OFFICIAL JOB DESCRIPTION, PERFORMING DUTIES OUTSIDE THEIR CLASIFICATIONS. (Deb Rainaldi, AFSCME)**

Chairman Halter stated that these matters will be rescheduled for the new Board to handle.

X. MERITS HEARING:

- **LB 15-06, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 1888 ON BEHALF OF JOSHUA DELGADO, ANIMAL WELFARE DEPARTMENT EMPLOYEE AGAINST THE CITY OF ALBUQUERQUE, ANIMAL WELFARE DEPARTMENT FOR VIOLATIONS OF THE COLLECTIVE BARGAINING AGREEMENT 24.2.4, 24.2.6 AND OF THE LMRO 3-2-9. (Tomas Romero, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the city. Rocky Gutierrez appeared on behalf of AFSCME. Chairman Halter stated that there would probably not be enough time to hear all witness testimony and for the parties to submit closing briefs by the date of his last meeting which is August 24th. This matter will be rescheduled for the new Board to hear.

XI. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and the meeting was adjourned at 10:11 a.m.

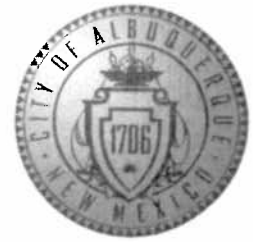
APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

8.24.2015
DATE

cc: Richard J. Berry, Mayor
Natalie Y. Howard, City Clerk



LABOR-MANAGEMENT RELATIONS BOARD

Monday, July 27, 2015

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

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Nick Bullock Victor Lovato
Samantha Hults Ben Guevera
Melissa Kountz James Montalbano
Kellie Garcia Fred Mowrer
Irma Gonzalez Rocky Gutierrez
Brittany Lopez Kim Ritchey
Jessica Enriquez Dolores Lovato*

PO Box 1293

MINUTES

Albuquerque

I. CALL TO ORDER.

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

New Mexico 87103

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JULY 27, 2015.

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

www.cabq.gov

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JULY 13, 2015.

Chairman Halter made a motion to approve the minutes for July 13, 2015. Juan Montoya seconded. Motion passed 3-0.

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

Fred Mowrer appeared on behalf of APOA and asked the Board if he can enter an order for LB 13-11. Chairman Halter stated that the Order will be placed on the agenda for August 10, 2015.

V. LB 15-04, AFSCME'S RESPONSE TO CITY'S MOTION FOR SUMMARY JUDGMENT. (Michael Dorin, AFSCME)

Melissa Kountz, Assistant City Attorney appeared on behalf of the city. Michael Dorin appeared on behalf of AFSCME. Ms. Kountz stated that this matter is premised on similarities of LB 11-26 which the Board has already decided and signed an Order. The Union's Response is almost identical to the Brief in LB 11-26 and because of the similarities matter should be dismissed for same reasons.

Mr. Dorin stated that AFSCME has not received a written decision on consideration and asked for a written decision.

Chairman Halter made a motion that the Board go into closed session to discuss LB 15-04 pursuant to section 10.15.1.H.3 of the Open Meetings Act which allows for the closing of meetings for deliberation by a public body in connection with an administrative adjudicatory proceeding as well as another provision from the Open Meetings Act with respect to the threat of litigation as a basis for closed session. Mr. Montoya seconded. A roll call vote was taken and the motion passed 3-0.

Chairman Halter made a motion to return to open session. The meeting had been in closed session pursuant to section 10.15.1.H.3 of the Open Meetings Act. He stated the Board was in closed session to discuss LB 15-04. Ms. Chappell seconded. Motion passed 3-0.

Ms. Chappell made a motion to grant the city's Motion for Summary Judgment. Chairman Halter seconded. Motion passed 3-0

Mr. Dorin and the Board members signed an Order of Dismissal for LB 15-04.

VI. CONSOLIDATED MATTERS LB 14-11, LB 12-32 AND LB 13-12:

- **AFSCME'S POST HEARING BRIEF AND FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND THE. (James Montalbano, AFSCME)**
- **CITY'S CLOSING ARGUMENT AND BRIEF IN SUPPORT THEREOF IN THE MATTERS CONSOLIDATED LB 14-11, LB 12-32 AND LB 13-12.**
Kellie Garcia, Assistant City Attorney appeared on behalf of the city. James Monalbano appeared on behalf of Youtz and Valdez and on behalf of AFSCME.

Chairman Halter made a motion that the Board go into closed session pursuant to section 10.15.1.H.3 of the Open Meetings Act which allows for the closing of meetings for deliberation by a public body in connection with an administrative adjudicatory proceeding as well as another provision from the Open Meetings Act with respect to the threat of litigation as a basis for closed session. Mr. Montoya seconded. A roll call vote was taken and the motion passed 3-0.

Chairman Halter made a motion to return to open session. The meeting had been in closed session pursuant to section 10.15.1.H.3 of the Open Meetings Act. Mr. Montoya seconded. A roll call vote was taken and the motion passed 3-0.

Chairman Halter stated that the Board was not ready to make a decision on this matter and rescheduled it for August 10, 2015.

VII. MOTIONS AND ORDERS:

- **LB 15-13, CITY'S MOTION TO DISMISS OR ALTERNATIVELY SUMMARY JUDGMENT. (Rocky Gutierrez, AFSCME)**
Samantha Hults, Assistant City Attorney appeared on behalf of the city and stated that there is a thirty day time limit to file a prohibited practice complaint and all matters complained of have occurred way before that time limit so there is grounds for dismissal. She stated that there isn't a case in controversy because all complaints are that employee's received letters of instructions and those letters are not discipline. One case is regarding a union representative that requested for union time when contract says they are supposed to give five days' notice unless there is an emergency. The employee was given a letter of instruction advising them to follow the contract and put in time which is under the city rules and regulations. The other

letters of instruction deals with an incident where there was theft and the employee instead of reporting to their supervisor they went to their union representative Casey Padilla. Letter of instruction stated that they are to report incident to their supervisor and participate in any investigation and the employee did not want to give the city information on what he saw and what occurred. The city asked to grant summary judgment since there was no discipline.

Rocky Gutierrez appeared on behalf of AFSCME and stated that regarding the time limit issue the employees were issued letters of investigation on May 8, May 9 and May 11 which triggered the time limits. The prohibited practice complaint was filed within the thirty days, on June 8, 2015. According to the collective bargaining agreement union time can be authorized and there are provisions for waiving the time limit. Union time does have to be requested in five days but Mr. Turrieta was approved union time and was allowed to go. The city then issued him a letter of investigation and letter of instruction and the union believes that interferes with the union ability to make a request. Mr. Torres did see theft and as steward he notified member of executive board but the responsibility of the union is to be the liaison between city and employee. Employees have rights to go to the union with any issues or concerns and there is nothing in the collective bargaining agreement stating they have to go to management. Union believes it is retaliation and asks to schedule a hearing.

Chairman Halter made a motion to deny the City's Motion for Summary Judgment and schedule matter for a hearing. Mr. Montoya seconded. Ms. Chappell opposed. Motion passed 2-1.

- **LB 15-14, STIPULATED ORDER FOR WITHDRAWAL. (Fred Mowrer, APOA)**

Fred Mowrer appeared on behalf of APOA and stated that this matter has been resolved and the parties submitted a Stipulated Order of Withdrawal. Chairman Halter made a motion to approve the Order. Ms. Chappell seconded. Motion passed 3-0.

VIII. NEW BUSINESS:

- **LB 15-15, PROHIBITED PRACTICE COMPLAINT FILED BY ALBUQUERQUE POLICE OFFICER'S ASSOCIATION AGAINST THE CITY OF ALBUQUERQUE AND ALBUQUERQUE POLICE DEPARTMENT FOR REFUSING TO HONOR THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT AND PAST PRACTICE OF THE BIDDING PROCESS FOR SERGEANTS. (Fred Mowrer, APOA)**

Fred Mowrer appeared on behalf of APOA. Kellie Garcia, Assistant City Attorney appeared on behalf of the city. Mr. Mowrer stated that he will be filing an amendment to the complaint to add another officer who was skipped in promotion. There will be two incidents of officers that should have been promoted and they are ready to have matter set for hearing.

This matter will be scheduled for a future date.

- **LB 15-16, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 2962 ON BEHALF OF THE EMPLOYEES OF THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT AGAINST THE CITY OF ALBUQUERQUE AND CITY'S SOLID WASTE DEPARTMENT FOR VIOLATION OF THE AGREEMENT BETWEEN THE CITY AND THE TECHNICAL AND CLERICAL EMPLOYEES. (Michael Dorin, AFSCME)**

Michael Dorin appeared on behalf of AFSCME and stated that this case relates to solid waste employees not being paid for paid breaks and asks to move for scheduling.

Kellie Garcia, Assistant City Attorney appeared on behalf of the city and stated that the city is going to submit an Amended Answer and Position Statement and Motion of Dismissal in this case and asks to hear this before scheduling hearing. City will have that filed within a week.

IX. MERITS HEARING:

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

Melissa Kountz, Assistant City Attorney appeared on behalf of the city. No one was present for APOA. The parties submitted an Unopposed Motion to Reset. Chairman Halter made a motion to approve the Stipulated Motion to Vacate. Ms. Chappell seconded. Motion passed 3-0.

• **LB 12-24, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF DOLORES LOVATO AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT FOR VIOLATION OF DUE PROCESS. (Casey Padilla or Rocky Gutierrez, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the city and with her appeared city representative Victor Lovato. Kim Ritchey appeared on behalf of AFSCME. Ms. Richie stipulated to the city's exhibits. Ms. Garcia stated that this prohibited practice complaint stems from a collective bargaining agreement that was in affect with local 624 transit and the city. Dolores Lovato grievant received a thirty day unpaid suspension as a sun van driver with abq transit department. She was suspended after causing an accident while driving city sun van. The sun van Ms. Lovato was on duty December 7, 2011 and surveillance from the sun van was reviewed by the predetermination hearing officer David Lovato and saw Ms. Lovato was driving in distracted and inattentive manner. Ms. Lovato reads text message and send messages and reached for food bag removing both hands from wheel. Ms. Lovato ran a red light at intersection of Fourth Street and I-40 frontage road. She collided with a white van making a left turn and that van was discovered to also be a city vehicle driven by city employee. Ms. Lovato received a notice of investigation on the same day of accident and the next week on December 13th the accident and injury review committee found that the accident could have been preventable. Risk Management was asked to also review the case and on January 17, 2012 risk management determined the accident was severe and investigation concluded. Ms. Lovato was given notice of predetermination hearing on March 30 2012 and the hearing was held on April 5, 2012. On July 26, 2012 Ms. Lovato received her thirty day unpaid suspension. The Union argues that investigation exceeded the forty-five days but investigation was concluded after review of risk management and the accident and injury review committee. Ms. Lovato had a significant disciplinary history prior to accident to include letter of instruction, letter of reprimand and ten day suspension for previous preventable accident. Under the terms of the collective bargaining agreement that was at that time in affect, the city had just cause to discipline and complied with the contract. City asks to deny grievance and uphold suspension.

Ms. Ritchey stated that the letter was not given within the forty five days it was given in one hundred and twenty days before anything was given to Lovato about incident. She was removed from her route for three months so they feel that was

already discipline. From December to April is a long time for a hearing. On July 17 she was given predetermination results which were one hundred and twenty days later. She was given a thirty day suspension and she worked four days a week not five days a week and her suspension went from July 30 to September 9 which is over thirty days. It was a hard ship for her and her family. Nothing was given to Dolores stating her investigation was closed.

The city called Dolores Lovato to testify.

Ms. Ritchey stated that the union filed the complaint on the forty five days not on the discipline. The city is proceeding on discipline not the forty five days.

Ms. Garcia stated that the prohibited practice complaint listed just cause provisions of the contract.

The parties requested a recess to discuss this issue. The parties stated that they have settled this case. Ms. Lovato's discipline will be readjusted based on her hours rather than days worked. The parties will submit a closing document.

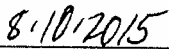
X. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Ms. Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 11:35 a.m.

APPROVED:

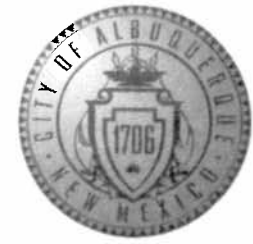


PATRICK HALTER, CHAIR
City Labor Board



DATE

cc: Richard J. Berry, Mayor
Natalie Y. Howard, City Clerk



LABOR-MANAGEMENT RELATIONS BOARD
Monday, July 13, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock
Brittany Lopez
Fred Mowrer
Benjamin Guevara
Jessica Enriquez
Rocky Gutierrez
Logan Radcliff
James Montellbano
Darlene Herrera
Casey Padilla
Jason Burnette

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, JULY 13, 2015.

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

New Mexico 87103

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JUNE 29, 2015.

Chairman Halter made a motion to approve the minutes. Susan Chappell seconded. 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 Youtz and Valdez and AFSCME. He asked to place LB 14-11 on the next agenda. Chairman Halter stated that this matter will be scheduled for July 27, 2015.

V. CONTINUANCE OF MERITS HEARING:

- **LB 11-11, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE HUMAN RESOURCES DEPARTMENT ON BEHALF OF AFSCME LOCAL 624, BLUE COLLAR EMPLOYEES OF THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT BY INITIATING THE LEAD DRIVER CLASIFICATION WITHOUT NEGOTIATING. (Rocky Gutierrez, AFSCME)**

Chairman Halter briefed the history of this matter and stated that this hearing is a continuance from the March 30, 2015 hearing. Jason Burnette, Attorney appeared on behalf of the City of Albuquerque. Rocky Gutierrez appeared on behalf of AFSCME and stated that the union rests their case with no further witnesses to call. The hearing proceeded with city witnesses. The city first called to testify James Mora, Associate Director for the City of Albuquerque, solid waste department. Mr. Mora testified to the creation of the B31 position that was created and discussed the difference between residential and commercial drivers, the equipment and the

training for these positions. Robert Griego, Senior Employee Relations Coordinator for the Human Resources Division was called as a city witness and testified to his knowledge of the creation and negotiation of the B31 position. He stated that he was not involved in the meeting that took place regarding the creation of the B31 position but AFSCME never reached out to him for their input with the creation of the position. Darlene Herrera, Classification and Compensation Manager for the city was called by the city to testify. She stated that the B31 classification was created due to business needs in the solid waste department and that the creation of the position did not require negotiation with the union because the city creates all classifications of positions. Next the city called Ismael Montanez, retired city employee to testify regarding what he recalled from the time he was employed with solid waste and regarding the creation of the B31 position. He stated that he was involved with the decision to create the position along with Mr. Soladay because the department did not have enough employees to cover all routes necessary to meet the citizen's needs. He stated that he recalls more than one meeting with the union to discuss the creation of the position and the union never filed a grievance to dispute the creation of the classification of B31. He also stated that the department followed the contract and the creation of a position is not required to be negotiated. Last, the city recalled witness John Soladay, Director of the solid waste department and he explained seniority in drivers defined in the collective bargaining agreement. Chairman Halter requested closing briefs by the parties due by July 31, 2015.

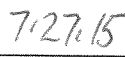
VI. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Susan Chappell seconded. Motion passed 3-0.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board



DATE

cc: Richard J. Berry, Mayor
Natalie Y. Howard, City Clerk



LABOR-MANAGEMENT RELATIONS BOARD

Monday, June 29, 2015

600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Nick Bullock Fred Mowrer
Kellie Garcia Brittany Lopez
Melissa Kountz Michael Dorin
Irma Gonzalez Tomas Romero
Samantha Hults Jessica Enriquez*

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, JUNE 29, 2015.

Chairman Halter made a motion to approve the agenda for June 29, 2015. Susan Chappell seconded. Motion passed 3-0.

New Mexico 87103

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JUNE 15, 2015.

Chairman Halter made a motion to approve the minutes for June 15, 2015. Juan Montoya seconded. Motion passed 3-0.

www.cabq.gov

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.

Melissa Kountz, Assistant City Attorney appeared on behalf of the city and stated that the city drafted an Order in LB 11-26 and Rocky Gutierrez agreed to the Order. Chairman Halter made a motion to that the Board sign the Order in LB 11-26. Mr. Montoya seconded. Motion passed 3-0.

VI. LB 13-11, REVIEW OF THE NOTICE OF PRESENTMENT OF SETTLEMENT AGREEMENT. (Fred Mowrer, APOA)

Fred Mowrer appeared on behalf of APOA and stated that the signatures on the agreement have not been completed. Samantha Hults, Assistant City Attorney appeared on behalf of the city and stated that Kathy Levy will be leaving the city so she will work with Mr. Mowrer to make sure the agreement gets done. The parties requested a continuance on this matter.

VII. MOTIONS AND ORDERS:

- **LB 13-04 ORDER OF DISMISSAL. (Rocky Gutierrez, AFSCME)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the city and stated that the city drafted an Order of Dismissal but Rocky Gutierrez has not provided any approval on the Order. Chairman Halter stated that since the Board made a decision to dismiss the matter previously, he made a motion to sign and approve the Order of Dismissal. Ms. Chappell seconded. Motion passed 3-0.
- **LB 15-09 CITY'S MOTION FOR SUMMARY JUDGMENT. (Tomas Romero, AFSCME)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the city and briefed the prohibited practice complaint and stated that the union alleges the city violated section 7.2.2 of the collective bargaining agreement and DMD officer Adrian Montoya alleges that he should have been paid holiday pay at time and a half for January 1, 2015. The city submitted a Motion for Summary Judgment on May 15, 2015 and she stated that there is no genuine issue of material facts. On December 23rd officer Montoya accepted to work December 30th and December 31st but Mr. Montoya called in sick and said he would be out through January 1st. The city department got another employee to cover his shift and Mr. Montoya showed up on January 1st stating it was his holiday to work. The city alleges that there is no genuine dispute of the collective bargaining agreement section 7.2.2 and he was paid regular time for January 1st but not time in a half.

Tomas Romero appeared on behalf of AFSCME and on behalf of Mr. Montoya and stated that the union disputes what the city claims and Mr. Montoya called his supervisor and said he would be returning to work on January 1st. He stated that Mr. Montoya has a doctor's note to support that he could go back to work on January 1st so the city should not have taken him off the schedule and request that the Board schedule this matter for a hearing.

Board members agreed that there is factual dispute to schedule this matter for a hearing. Chairman Halter made a motion to deny the city's Motion for Summary Judgment and schedule this matter for a hearing. Juan Montoya seconded. Motion passed 3-0.

VIII. STATUS OR SCHEDULING OF CASES:

- **LB 07-12 STEP III GRIEVANCE ON BEHALF OF ANNETTE MATA FOR VIOLATIONS OF THE CBA SECTION 34, QUALIFICATION FOR PROMOTION AND SECTION 35, OFFICIAL JOB DESCRIPTION. (Rocky Gutierrez, AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the city and stated that this case is a water authority case and is no longer a part of the city of Albuquerque and the Board does not have jurisdiction to hear this matter. The city believes this matter is mute and submitted a Motion and Order for Dismissal to Mr. Gutierrez and the Board and Mr. Gutierrez has not responded.

Michael Dorin appeared on behalf of AFSCME and stated that the union requests to move to schedule a hearing.

Susan Chappell made a motion for the union to submit a response to the city's Motion to Dismiss. Chairman Halter seconded. Motion passed 3-0.

Chairman Halter made a motion that AFSCME file a written response by July 9, 2015. Chappell seconded. Motion passed 3-0.

- **LB 07-29 PROHIBITED PRACTICE COMPLAINT FOR VIOLATIONS OF THE LABOR MANAGEMENT RELATIONS ORDINANCE SECTIONS 3-2-9 A (4) AND SECTION 3-2-13 C (1) THROUGH (3). (Rocky Gutierrez, AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the city and stated this was a complaint filed by all AFSCME locals to dispute the substance abuse policy of 2006 which

since then has been struck down by the District Court and there has been several enactments of the policy and multiple contract negotiations since. The city feels that this matter is mute and there is no meaningful relief and submitted a proposed Order to AFSCME but received no response.

Michael Dorin appeared on behalf of AFSCME and stated that the union moves to request a hearing on this matter.

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

- **LB 07-27, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF GWEN TRANCOSA REGARDING THE VIOLATIONS OF THE CBA WORKPLACE CONDUCT AND THE LMRO SECTION 3-2-9 A(1) A(2) A(4). (Rocky Gutierrez, AFSCME)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the city and stated that there was a hearing held and the Board moved to dismiss the complaint. The city filed a Motion and proposed Order to Dismiss.

Michael Dorin appeared on behalf of AFSCME and was not aware of this matter so he asked the Board to reschedule.

Chairman Halter made a motion to administratively close the case. Ms. Chappell seconded. Motion passed 3-0.

- **LB 14-18, STEP III GRIEVANCE FILED BY AFSCME LOCAL 2962 ON BEHALF OF STEPHANIE TAFOYA FOR DENYING HER DUE PROCESS AT A DISCIPLINARY HEARING AND FOR VIOLATION OF THE CONTRACT INCLUDING ARTICLE 24.1.3 AND 24.2.1. (Michael Dorin, AFSCME)**

Samantha Hults, Assistant City Attorney appeared on behalf of the city. Michael Dorin appeared on behalf of AFSCME. The parties stated that they are ready to proceed in scheduling for a hearing.

Date of hearing to be determined and announced at a future meeting.

- **LB 14-19, STEP III GRIEVANCE FILED BY AFSCME LOCAL 2962 ON BEHALF OF NOAH FLORES, TELECOMMUNICATOR II FOR VIOLATION OF THE CONTRACT AND FOR DENYING HIS DUE PROCESS BY REFUSING HIM SICK LEAVE AND BENEFITS FOR THE DAY. (Michael Dorin, AFSCME LOCAL 2962)**

Samantha Hults, Assistant City Attorney appeared on behalf of the city. Michael Dorin appeared on behalf of AFSCME. The parties stated that they are ready to proceed in scheduling for a hearing.

Date of hearing to be determined and announced at a future meeting.

- **LB 15-14 PROHIBITED PRACTICE COMPLAINT FILED BY ALBUQUERQUE POLICE OFFICERS' ASSOCIATION AGAINST THE CITY OF ALBUQUERQUE AND ALBUQUERQUE POLICE DEPARTMENT FOR VIOLATION OF THE COLLECTIVE BARGAINING AGREEMENT AND PAST PRACTICE BY STOPPING DUES PAID TO THE UNION THROUGH WAGE DEDUCTION UNILATERALLY WITHOUT NEGOTIATING. (Fred Mowrer, APOA)**

Fred Mowrer appeared on behalf of APOA and Melissa Kountz, Assistant City Attorney appeared on behalf of the city. Mr. Mowrer stated that the parties are working to settle but if not resolved will request to reschedule this matter.

IX. NEW BUSINESS:

- **LB 15-10 PROHIBITED PRACTICE COMPLAINT ON BEHALF OF BLUE COLLAR EMPLOYEES WITHIN THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT. (Steven Griego, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the city and stated that the city submitted a Motion for Summary Judgment on June 11, 2015 and she asked that the Motion be scheduled to be heard.

Chairman Halter requested a written response from AFSCME within thirty days and matter will be scheduled addressed after the response is received.

- **LB 15-11 STEP III GRIEVANCE ON BEHALF OF VALERIE BARELA EMPLOYEE WITH APD FOR HER 160 HOUR SUSPENSION AND VIOLATION TO INCLUDE BUT NOT LIMITED TO JUST CAUSE. (Rocky Gutierrez, AFSCME)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the city. Michael Dorin appeared on behalf of AFSCME. The parties stated that they are ready to proceed in scheduling this matter for a hearing.

Date of hearing to be determined and announced at a future meeting.

- **LB 15-12 STEP III GRIEVANCE ON BEHALF OF CHRISTINE MONTOYA EMPLOYED WITH THE DEPARTMENT OF FAMILY AND COMMUNITIY SERVICES FOR HER THREE DAY SUSPENSION. (Michael Dorin, AFSCME)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the city. Michael Dorin appeared on behalf of AFSCME. The parties stated that they are ready to proceed in scheduling this matter for a hearing.

Date of hearing to be determined and announced at a future meeting.

X. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Susan Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 9:31 a.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board



DATE

cc: Richard J. Berry, Mayor
Natalie Y. Howard, City Clerk



LABOR-MANAGEMENT RELATIONS BOARD
Monday, June 15, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock *Rocky Gutierrez*
Kellie Garcia *Brittany Lopez*
Melissa Kountz

MINUTES

PO Box 1293

Albuquerque

I. CALL TO ORDER.

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

New Mexico 87103

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JUNE 15, 2015.

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

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III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JUNE 1, 2015.

Chairman Halter made a motion to approve the minutes for June 1, 2015. Ms. Chappell seconded. 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.

VI. Chairman Halter made a motion to sign the Order Granting the City's Unopposed Motion to Extend the Deadline to Submit Closing Arguments in LB 14-11 consolidated with LB 13-14 and LB 12-32. Ms. Chappell seconded. Motion passed 3-0.

VII. LB 13-11, REVIEW OF THE NOTICE OF PRESENTMENT OF SETTLEMENT AGREEMENT. (Fred Mowrer, APOA)

Chairman Halter passed on this item because no one was present from APOA or the city for this matter.

VIII. MOTIONS AND ORDERS:

- **LB 13-04 ORDER OF DISMISSAL. (Rocky Gutierrez, AFSCME)**
- **LB 15-09 CITY'S MOTION FOR SUMMARY JUDGMENT. (Tomas Romero, AFSCME)**

Chairman Halter stated that the Board did receive a notice of non-availability from Rocky Gutierrez and he did send an email to Jessica Enriquez stating he would grant the notice but she did not communicate the response to Mr. Gutierrez. Mr. Gutierrez was present on behalf of AFSCME and apologized for the confusion and stated he was not expected to be present but his matter was cancelled on Friday so he was able to attend. He was not sure if the city had notice or ready to proceed. He asked the Board to reschedule this matter.

Kelly Garcia, Assistant City Attorney appeared on behalf of the city and stated that they received notice that AFSCME would not be prepared to go forward with any of the AFSCME cases on the agenda. She stated that the city was not prepared to present argument and did not know Mr. Gutierrez or Tomas Romero would be present on behalf of AFSCME.

All AFSCME matters are rolled over to June 29, 2015.

IX. STATUS ON OLD CASES:

- **LB 07-12 STEP III GRIEVANCE ON BEHALF OF ANNETTE MATA FOR VIOLATIONS OF THE CBA SECTION 34, QUALIFICATION FOR PROMOTION AND SECTION 35, OFFICIAL JOB DESCRIPTION. (Rocky Gutierrez, AFSCME)**
- **LB 07-29 PROHIBITED PRACTICE COMPLAINT FOR VIOLATIONS OF THE LABOR MANAGEMENT RELATIONS ORDINANCE SECTIONS 3-2-9 A(4) AND SECTION 3-2-13 C(1) THROUGH (3). (Rocky Gutierrez, AFSCME)**
- **LB 07-27, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF GWEN TRANCOSA REGARDING THE VIOLATIONS OF THE CBA WORKPLACE CONDUCT AND THE LMRO SECTION 3-2-9 A(1) A(2) A(4). (Rocky Gutierrez, AFSCME)**

See item VIII.

X. NEW BUSINESS:

- **LB 15-10 PROHIBITED PRACTICE COMPLAINT ON BEHALF OF BLUE COLLAR EMPLOYEES WITHIN THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT. (Steven Griego, AFSCME)**
- **LB 15-11 STEP III GRIEVANCE ON BEHALF OF VALERIE BARELA EMPLOYEE WITH APD FOR HER 160 HOUR SUSPENSION AND VIOLATION TO INCLUDE BUT NOT LIMITED TO JUST CAUSE. (Rocky Gutierrez, AFSCME)**
- **LB 15-12 STEP III GRIEVANCE ON BEHALF OF CHRISTINE MONTOYA EMPLOYED WITH THE DEPARTMENT OF FAMILY AND COMMUNITY SERVICES FOR HER THREE DAY SUSPENSION. (Michael Dorin, AFSCME)**

See item VIII.

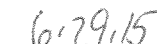
XI. ADJOURNMENT.

Chairman Halter made a motion to adjourn the meeting. Juan Montoya seconded.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board



DATE

cc: Richard J. Berry, Mayor
Natalie Y. Howard, City Clerk



LABOR-MANAGEMENT RELATIONS BOARD
Monday, June 1, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock *Rocky Gutierrez*
Kellie Garcia *Brittany Lopez*
Melissa Kountz *Robert Montoya*
Victor Lovato *Michael Dorin*
Fred Mowrer

MINUTES

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

- I. CALL TO ORDER.**
Chairman Patrick Halter called the meeting to order at 9:15 a.m. All members were present.
- II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JUNE 1, 2015.**
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 MAY 18, 2015.**
Chairman Halter made a motion to approve the minutes for May 18, 2015. Susan Chappell seconded. 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. LB 13-11, REVIEW OF THE NOTICE OF PRESENTMENT OF SETTLEMENT AGREEMENT. (Fred Mowrer, APOA)**
Fred Mowrer appeared on behalf of APOA and stated that Kathryn Levy could not be present and the agreement is still in the process of being signed. He asked the Board to reschedule this matter for the next meeting.

This matter is rescheduled for June 15, 2015.

VII. STATUS AND SCHEDULING OF CASES:

- **LB 12-24, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624 ON BEHALF OF DOLORES LOVATO, TRANSIT DEPARTMENT FOR VIOLATION OF DUE PROCESS (Casey Padilla, AFSCME)**
- **LB 14-18, STEP III GRIEVANCE FILED BY AFSCME LOCAL 2962 ON BEHALF OF STEPHANIE TAFOYA FOR DENYING HER DUE PROCESS AT A DISCIPLINARY HEARING AND FOR VIOLATION OF THE CONTRACT INCLUDING ARTICLE 24.1.3 AND 24.2.1. (Michael Dorin, AFSCME LOCAL 2962)**
- **LB 14-19, STEP III GRIEVANCE FILED BY AFSCME LOCAL 2962 ON BEHALF OF NOAH FLORES, TELECOMMUNICATOR II FOR VIOLATION OF THE CONTRACT AND FOR DENYING HIS DUE PROCESS BY REFUSING HIM SICK LEAVE AND BENEFITS FOR THE DAY. (Michael Dorin, AFSCME LOCAL 2962)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the city. Rocky Gutierrez appeared on behalf of AFSCME. Chairman Halter stated that LB 12-24 will be scheduled for merits hearing on July 27, 2015 and LB 14-18 and LB 14-19 will be rescheduled for scheduling of a merits hearing.

VIII. MOTIONS, RESPONSES AND ORDERS:

- **LB 15-01, CITY'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT. PETITIONER'S RESPONSE TO PPC. (Robert Montoya)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the city and stated that the complaint reflects two distinct matters and one is an unemployment reimbursement matter which she and Mr. Montoya are working on a settlement and the second is contractual violations. She stated that the complaint alleges contractual violations of sections 12.4.1, 13.1.1.2, 13.4.2, 13.4.3, 13.4.4, 13.4.7 and 20.2.2 and she briefed each section. She read section 13 page 27 of the contract and stated that Mr. Montoya was an extra board driver with a CDL and was assigned to work an event. The city asked the Board to dismiss this matter with prejudice or if a hearing is scheduled she requested that the city join with AFSCME Local 624, Transit as a party because decision may impact transit employees as well.

Robert Montoya appeared and stated that he is a Sun Van driver and not a Motor Coach Operator and asked that the Board schedule this matter for a hearing because he was drafted to work on an event day and was forced and threatened to work that on that day. He stated that his seniority is number seven which is above others and employees below him were not used to work and referred to section 20 of the Policies and Procedures.

Rocky Gutierrez appeared on behalf of AFSCME and stated that the union will enter into this case and agrees that this matter should go forward.

Chairman Halter ordered parties to meet and discuss this matter and report the status back to the Board in sixty days.

- **LB15-07, CITY'S MOTION FOR SUMMARY JUDGMENT AND CITY'S MOTION TO DISMISS. (Rocky Gutierrez, AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the city. Rocky Gutierrez appeared on behalf of AFSCME. Ms. Kountz briefed the complaint and discussed the new tracking system for union time and the past practice. She stated that there is a new different funding for union time and document is needed for tracking and processing. She asked the Board to dismiss the prohibited practice complaint. Mr. Gutierrez stated that the Labor Board does not have jurisdiction to discuss past practice process for requesting union time and gave argument regarding P30's required for union time by city employees to conduct union business. He asked the Board to deny the City's Motion of Summary Judgment and order the city to negotiate or schedule this matter for a hearing.

Chairman Halter made a motion to deny the city's Motion for Summary Judgment and ordered parties to meet and report status back to the Board in sixty days. Mr. Montoya seconded. Chappell did not second. Motion passed 2-1.

IX. ADJOURNMENT.

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

APPROVED:

 _____	<u>6-15-2015</u>
PATRICK HALTER, CHAIR City Labor Board	DATE

cc: Richard J. Berry, Mayor
Natalie Y. Howard, City Clerk



LABOR-MANAGEMENT RELATIONS BOARD

Monday, May 18, 2015

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

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

<i>Nick Bullock</i>	<i>Rocky Gutierrez</i>
<i>Kathryn Levy</i>	<i>James D'Amato</i>
<i>Kellie Garcia</i>	<i>Mary Scott</i>
<i>Melissa Kountz</i>	<i>James Montalbano</i>
<i>Victor Lovato</i>	<i>Tomas Romero</i>
<i>Mark Shepard</i>	<i>Anthony Chavez</i>
<i>Rebecca Martinez</i>	<i>Michael Dorin</i>
<i>Brittany Lopez</i>	<i>Jessica Enriquez</i>

PO Box 1293

MINUTES

Albuquerque

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, MAY 18, 2015.

New Mexico 87103

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

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR MAY 4, 2015.

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Chairman Halter made a motion to approve the minutes for May 4, 2015. Susan Chappell seconded. 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.

Kellie Garcia, Assistant City Attorney appeared on behalf of the city for LB 12-08. No one was present for NMTU. An Order of Dismissal was entered by the city and Ms. Garcia stated that the Board voted to dismiss this matter back in March. Chairman Halter made a motion to approve the Order of Dismissal in LB 12-08. Mr. Montoya seconded. Motion passed 3-0.

VI. LB 13-11, REVIEW OF THE NOTICE OF PRESENTMENT OF SETTLEMENT AGREEMENT. (Fred Mowrer, APOA)

Kathryn Levy, Assistant City Attorney appeared on behalf of the city and stated that not all signatures have been received on the agreement. She requested to reset this matter for the next meeting.

This matter is reset for June 1, 2015.

VII. SCHEDULING OF CASES:

- **LB 12-26, REVIEW OF PETITIONER'S CERTIFICATE OF READINESS AND REQUEST FOR HEARING. (JOHN D'AMATO, APOA)**

John D'Amato appeared on behalf of APOA. Kathryn Levy, Assistant City Attorney appeared on behalf of the city. After a brief discussion and agreement on scheduling dates, the parties and the Board agreed to schedule a merits hearing on this matter for July 27, 2015.

VIII. MOTIONS, RESPONSES AND ORDERS:

- **LB 12-08, ORDER OF DISMISSAL. (PAUL LIVINGSTON on behalf of NMTU)**

See item V.

- **LB 15-03, ORDER OF DISMISSAL. (ROBERT GUTIERREZ OR PAUL LIVINGSTON on behalf of NMTU and SHANE YOUTZ, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the city. No one was present for NMTU. Ms. Garcia stated that the Board previously voted to dismiss this matter on March 16, 2015 and the city entered an Order of Dismissal. Chairman Halter made a motion to dismiss LB 15-03. Mr. Montoya seconded. Motion passed 3-0.

- **LB 15-09, CITY'S MOTION TO DISMISS. (THOMAS ROMERO, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the city. Rocky Gutierrez appeared on behalf of AFSCME. Ms. Garcia stated that the city withdraws the Motion to Dismiss and submitted a Motion for Summary Judgment and requested to schedule the Motion for Summary Judgment to a future hearing date.

The Motion for Summary Judgment will be scheduled for June 15, 2015.

- **LB 15-04, CITY'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT. (MICHAEL DORIN, AFSCME)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the city and stated that this case is a promotional case involving Ms. Thompson who is a member of the clerical union who applied for an M series position. The position was offered to an outside applicant who accepted. She stated that this matter should be dismissed on two grounds. First the clerical union contract cannot control the selection of the M series position and no mention in collective bargaining agreement states that clerical member should be selected over members of the same bargaining unit. Second reason is that facts are almost identical to those in LB 12-26 and this matter should be dismissed.

Michael Dorin appeared on behalf of AFSCME and stated that the city's argument is negated because they picked an outside candidate in terms of 20.1.1 of the contract. He stated that in LB 12-26 there was an incorrect definition by the Labor Board in terms of first consideration as opposed to legal consideration.

Chairman Halter requested that the parties submit written orders by June 15, 2015.

- **LB 15-08, CITY'S MOTION TO DISMISS PPC. (ROBERT GUTIERREZ on behalf of NMTU and SHANE YOUTZ, AFSCME)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the city and stated that this complaint should be dismissed because NMTU is not the correct party of interest and not the exclusive representative of employees and have no standing to make arguments. She stated that any arguments made regarding Ron Gonzales have been made in a personnel board matter that is still pending. The city request to dismiss this matter.

James Montalbano appeared on behalf of AFSCME and stated that the union does not oppose the city's request to dismiss.

Chairman Halter made a motion to grant the city's Motion to Dismiss LB 15-08. Mr. Montoya seconded. Motion passed 3-0.

- **LB 15-06, CITY'S MOTION FOR MORE DEFINITE STATEMENT AND MOTION TO STAY TIME LIMITS FOR DISPOSITIVE MOTIONS. (TOMAS ROMERO, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the city and stated that this prohibited practice complaint was filed on behalf of Josh Delgado, animal welfare employee who was given a 90 day suspension, 30 days' work days without pay and 60 workdays with pay. The union alleges violations of the collective bargaining agreement (CBA) sections 24.2.4 and 24.2.6 and the labor management relations ordinance (LMRO) section 3-2-9. The city filed Motion for More Definite Statement requesting which parts of CBA and LMRO the city was alleged of violating. She stated that Tomas Romero sent an email to paralegal Denise Enriquez stating he would review the Motion with Mr. Gutierrez and give more details. The city has not received a more definite statement and the city requested an enlargement of time to file dispositive motions after receiving the unions more definite statement.

Rocky Gutierrez appeared on behalf of AFSCME and stated that this case is a Step III grievance and issue of the case is form of discipline. He stated that the City carries the burden of proof to establish just cause. He objected to the city's request for dispositive motions and asked the Board to deny the city's motion for more definite statement and schedule matter for a hearing.

Ms. Garcia stated that Tomas Romero consented to the city's Motion for More Definite Statement when he said yes he would go over and provide more details of complaint.

Chairman Halter made a motion to deny the City's Motion for More Definite Statement and Motion to Stay Time. Mr. Montoya seconded. Motion passed 3-0.

Matter will be scheduled for merits hearings on August 10, 2015.

- **LB 14-20, AMENDED ANSWER TO PROHIBITED PRACTICE COMPLAINT, POSITION STATEMENT, and MOTION FOR DISMISSAL AND AFSCME'S AMENDED STEP III GRIEVANCE. (ROCKY GUTIERREZ, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. Ms. Garcia stated that Mr. Gutierrez was ordered to amend his complaint and did so. She stated that a merits hearing was scheduled for March 16, 2015 and was vacated but never reset. She requests to set matter of merits hearing.

Mr. Gutierrez stated that the City's argument on the City's Motion to Dismiss was exhausted and the parties agreed that the union would amend the complaint. He stated that he thought the matter was resolved and the City requesting time to submit their answer would be untimely.

Chairman Halter made a motion to set this matter for a hearing on August 24, 2015. Mr. Montoya seconded. Motion passed 3-0.

IX. MERITS HEARING:

- **LB 14-11 consolidated with LB 12-32 and LB 13-14, AFSCME LOCAL 1888 v. CITY OF ALBUQUERQUE, DEPARTMENT OF MUNICIPAL DEVELOPMENT. (JAMES YOUTZ on behalf of AFSCME)**

James Montalbano with Youtz and Valdez appeared on behalf of AFSCME and with him appeared AFSCME representative Rocky Gutierrez. Mr. Montalbano stated that City violated the collective bargaining agreement (CBA) and the labor management relations ordinance (LMRO) by imposing furlough days and forcing employees to take two furlough days off a year even after economic budget crisis. He stated that the Mayor gave a 1% raise to city employees in 2012 and 2013 and a 3% raise in 2014 but the local 1888 members did not get the raise and instead were forced to give furlough days.

He asked the Board to find that the city is in breach of the CBA and the LMRO for failing to bargain in good faith and order the city to reimburse lost wages to all employees of local 1888. The parties stipulated to all of the unions exhibits 1-26 except exhibit 3 and 5.

The union's witnesses that appeared to testify were Tomas Romero, City Security Officer with department of municipal development, Anthony Chavez, Transit Security Officer with ABQ ride, Rebecca Macias, Animal Control Officer with animal welfare department and Rocky Gutierrez, AFSCME representative.

Kellie Garcia and Melissa Kountz, Assistant City Attorney's appeared on behalf of the city and with them appeared city representative and Human Resource Director Mary Scott. Ms. Garcia stated that the city has complied with section 2.5 of the collective bargaining agreement and when the city council implemented a decrease in pay the city and the union negotiated furlough days for 1888 members in lieu of pay decrease. She stated that transit and department of municipal development abided by 2.5 of the CBA and asked the Board to deny the grievance and deny request for reimbursement of furlough days off. The parties stipulated to all of the city's exhibits 1-15 except for exhibit 2 and 5. The city's witnesses that appeared to testify were John Baker, former Security Lieutenant for Transit, Mary Scott, Human Resources Director, Mark Shepard, Security and Parking Division Manager and Renee Carriaga, Superintendent for department of municipal development.

The Board ordered written closing statements and proposed order of findings from the parties due by June 18, 2015. Once parties have submitted statements this item will be placed on an agenda after June 18th.

X. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and the meeting was adjourned at 3:47 p.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

June 1, 2015

DATE

cc: Richard J. Berry, Mayor
Natalie Y. Howard, City Clerk

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD
Monday, May 4, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock
Kathryn Levy
Kellie Garcia
Jessica Enriquez
Rocky Gutierrez
Fred Mowrer
Jared Klunczyk

MINUTES

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

- 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, MAY 4, 2015.**
Chairman Halter made a motion to approve the agenda for May 4, 2015. Susan Chappell seconded. Motion passed 3-0.
- III. **REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR MARCH 30, 2015.**
Chairman Halter made a motion to approve the minutes for March 30, 2015. Juan Montoya seconded. Motion passed 3-0.
- IV. **PUBLIC COMMENTS *Limited to three (3) minutes total time per person.**
Rocky Gutierrez appeared on behalf of AFSCME and stated that the union has several old pending cases that have not been scheduled for hearing. He asked how the union should approach the Board with pending cases for scheduling.

Chairman Halter instructed the city and the union to meet to discuss pending cases and Jessica Enriquez will provide a list to the parties of open pending cases.
- V. **RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**
Fred Mowrer appeared on behalf of APOA and stated that the parties have reached an agreement in LB 13-12 and an Order of Dismissal was submitted. Kathy Levy, Assistant City Attorney appeared on behalf of the city. Chairman Halter made a motion to approve the Order of Dismissal in LB 13-12. Ms. Chappell seconded. Motion passed 3-0.

VI. LB 13-11, REVIEW OF THE NOTICE OF PRESENTMENT OF SETTLEMENT AGREEMENT. (Fred Mowrer, APOA)

Fred Mowrer appeared on behalf of APOA and Kathy Levy, Assistant City Attorney appeared on behalf of the city. The parties requested a continuance on this matter to get agreement signed. Chairman Halter granted the continuance and this matter will be rescheduled for May 18, 2015.

VII. SCHEDULING HEARING IN LB 12-24, LOCAL 624 v. CITY.

Kellie Garcia, Assistant City Attorney appeared on behalf of the city and stated that the grievant claims that the contract was violated because an investigation was not completed on time and did not receive due process.

The parties agreed to meet to discuss matter before scheduling a hearing and this item will be rescheduled for June 1, 2015.

VIII. MOTIONS, RESPONSES AND ORDERS:

• **LB 15-05, STIPULATED ORDER OF DISMISSAL. (Fred Mowrer, APOA)**

Fred Mowrer appeared on behalf of the City and Kathy Levy, Assistant City Attorney appeared on behalf of city. The parties submitted to the Board a Stipulated Order to Dismiss this matter. Chairman Halter made a motion to approve the Order. Ms. Chappell seconded. Motion passed 3-0.

• **LB 13-07, MOTION TO WITHDRAW AND STIPULATED ORDER FOR WITHDRAWAL. (Jared Klunczyk, AFSCME)**

• **LB 13-08, MOTION TO WITHDRAW AND STIPULATED ORDER FOR WITHDRAWAL. (Jared Klunczyk, AFSCME)**

• **LB 13-09, MOTION TO WITHDRAW AND STIPULATED ORDER FOR WITHDRAWAL. (Jared Klunczyk, AFSCME)**

Jared Klunczyk appeared on behalf of AFSCME and on behalf of grievant Frances Vallejos. Kellie Garcia, Assistant City Attorney appeared on behalf of the city. Mr. Klunczyk stated that the union has submitted the Motions to Withdrawal in LB 13-07, LB 13-08 and LB 13-09 because Ms. Vallejos has now retired from the city. Ms. Garcia stated that the city does not oppose the Stipulated Order's for Withdrawal. Chairman Halter made a motion to approve the Orders to Withdrawal in LB 13-07, LB 13-08 and LB 13-09. Juan Montoya seconded. Motion passed 3-0.

• **LB 14-28, CITY'S AMENDED ANSWER, POSITION STATEMENT AND MOTION TO DISMISS. (Rocky Gutierrez, AFSCME)**

Kellie Garcia, Assistant City Attorney appeared on behalf of the city and stated that last fall the Solid Waste Management Department restricted its collection routes so that each route could be completed in eight hour time frames. The union alleges the city committed a prohibited practice under the labor management relations ordinance (LMRO) because there was an MOU in place and past practice of route committees to discuss routes and changes to routes and the city failed to meet to discuss route changes. The Union also alleges the City failed to bargain to impasse the change and working conditions. The city requested a Dismissal in this matter because it failed to state a claim upon which relief can be granted. She stated that the last time the committee met was in 2008 and the management names the union provided in there more definite statement are names of employees that are no longer employed with the city therefore there is no past practice of the committee. She also stated that the MOU between the city and union was no longer in place and expired in 2002 and was not renewed and it is management's right under the LMRO to make decisions to assure operational efficiency and the city did offer the union a chance to provide input.

Rocky Gutierrez appeared on behalf of AFSCME and stated that the MOU was a condition of bargaining and the parties agreed to create route committees and it has been past practice. He stated that any change that affects employees have to be negotiated or meet with route committee to agree on route structures and boundaries. He asked the Board to schedule a hearing or order the city to enter into route committees.

Chairman Halter made a motion to deny the City's Motion to Dismiss and ordered the parties to meet to discuss matter and report back to the Board in 45 days. Juan Montoya seconded. Motion passed 3-0.

IX. CONTINUANCE OF MERITS HEARING:

- **LB 11-11, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE HUMAN RESOURCES DEPARTMENT ON BEHALF OF AFSCME LOCAL 624, BLUE COLLAR EMPLOYEES OF THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT BY INITIATING THE LEAD DRIVER CLASIFICATION WITHOUT NEGOTIATING. (Rocky Gutierrez, AFSCME)**

Parties submitted a Motion to Vacate the hearing. Chairman Halter made a motion to approve the Motion to Vacate. Susan Chappell seconded. Motion passed 3-0.

X. ADJOURNMENT.

Chairman Halter made a motion to adjourn the meeting. Ms. Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 9:37 a.m.

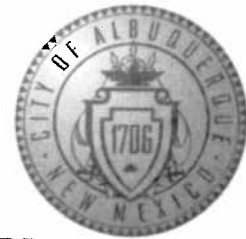
APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

5.18.2015
DATE

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



CITY LABOR - MANAGEMENT RELATIONS BOARD

PATRICK HALTER
SUSAN CHAPPELL
JUAN MONTOYA

NOTICE OF CANCELLATION

**THE CITY LABOR-MANAGEMENT
RELATIONS BOARD MEETING
HAS BEEN CANCELLED FOR
MONDAY, APRIL, 20, 2015, FOR LACK OF A
QUORUM. THE NEXT SCHEDULED MEETING
WILL BE MONDAY, MAY 4, 2015.**

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

If you have any questions, please contact Jessica Enriquez at 505-924-3918.

POSTED AT CITY/COUNTY GOVERNMENT CENTER, ONE CIVIC PLAZA

DATE POSTED: April, 16, 2015



LABOR-MANAGEMENT RELATIONS BOARD

Monday, March 30, 2015

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

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Nick Bullock
Melissa Kountz
Kellie Garcia
Samantha Hults
Fred Mowrer
Dwayne Mier*

*Rocky Gutierrez
Jason Barnette
Jessica Enriquez
John Soliday
Casey Padilla*

MINUTES

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

- I. CALL TO ORDER.**
Chairman Patrick Halter called the meeting to order at 9:04 a.m. All members were present.
- II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, MARCH 30, 2015.**
Chairman Halter made a motion to approve the agenda. Susan Chappell seconded. Motion passed 3-0.
- III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR MARCH 16, 2015.**
Chairman Halter made a motion to approve the minutes for March 16, 2015. Juan Montoya seconded. Motion passed 3-0.
- IV. PUBLIC COMMENTS *Limited to three (3) minutes total time per person.**
Chairman Halter stated that the next Labor Board meeting has been scheduled for April 20, 2015.
- V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**
Chairman Halter made a motion to approve a Stipulated Order of Dismissal in LB 15-04. Ms. Chappell seconded. Motion passed 3-0.
- VI. LB 11-26, BOARD REVIEW OF AFSCME'S AND CITY'S BRIEFS. (Rocky Gutierrez, AFSCME)**
Matter was discussed in closed session. See item VIII.

VII. STATUS:

- **LB 13-28 AND LB 14-03 (consolidated). (Rocky Gutierrez, AFSCME)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. The parties reached an agreement that AFSCME agreed to withdrawal LB 13-28 and the City agreed to withdrawal LB 14-03 and filed a Joint Motion to Dismiss and an Order of Dismissal. Chairman Halter made a motion to accept the Order of Dismissal in LB 13-28 and LB 14-03. Juan Montoya seconded. Motion passed 3-0.

VIII. MOTIONS, RESPONSES AND ORDERS:

- **LB 14-14, CITY'S AMENDED ANSWER, POSITION STATEMENT AND MOTION TO DISMISS. (Casey Padilla, AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. The parties have settled the matter and submitted a Joint Motion to Dismiss. Chairman Halter made a motion to approve the Motion to Dismiss. Susan Chappell seconded. Motion passed 3-0.
- **LB 13-04, CITY'S AMENDED ANSWER, POSITION STATEMENT AND MOTION FOR MORE DEFINITE STATEMENT. (Jared Klunczyk, AFSCME)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the City and briefed the case stating that this matter involves an employee at APD 911 call center Randy Torres who was disciplined for a violence in the work place incident on August 24, 2012. She stated that the Union alleges the City violated a procedural time line in the contract alleging the City had not completed their investigation within the 90 day time period. The City filed a Motion to Dismiss with an Amended answer on the basis that the City complied with the contract at all times and completed its investigation within 90 day time period and nothing in the contract says at the close of 90 day period a discipline must be issued. She said that Mr. Torres discipline was just cause.

Rocky Gutierrez appeared on behalf of AFSCME and Randy Torres and stated that there was a Step I and Step II grievance filed and Step III grievance which came to the Labor Board. He stated that this matter should not be dismissed and a merit hearing needs to be scheduled to determine just cause.

Ms. Garcia responded that the prohibited practice complaint filed alleged a procedural matter and did not deny that there was just cause for the discipline.

Mr. Gutierrez responded that the motion for today on the agenda is a Motion for More Definite Statement and not the Motion to Dismiss and the union has submitted a more definite statement. Does not think this case should be dismissed and the employee has due process and matter should be scheduled for a hearing.

Matter was discussed in closed session after LB 12-31 of this item.

- **LB 14-23, ORDER OF DISMISSAL. (Rocky Gutierrez, AFSCME)**
Chairman Halter made a motion to approve the Order of Dismissal. Susan Chappell seconded. Motion passed 3-0.
- **LB 12-31 AFSCME'S RESPONSE TO CITY'S MOTION TO DISMISS. (Rocky Gutierrez, AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. The parties reached an agreement and submitted an Order of Dismissal. Chairman Halter made a motion to adopt the Order of Dismissal. Susan Chappell seconded. Motion passed 3-0.

Chairman Halter made a motion for the Board to enter into closed executive session to discuss LB 11-26 and LB 13-04. Juan Montoya seconded. Motion passed 3-0.

Closed session concluded. Chairman Halter made a motion for the Board to return to open session. Mr. Montoya seconded. Motion passed 3-0. Chairman Halter made a motion to grant the City's Motion to Dismiss LB 13-04. Susan Chappell seconded. Motion passed 3-0. Chairman Halter made a motion to dismiss LB 11-26. Ms. Chappell seconded. Motion passed 3-0.

IX. MERITS HEARING:

- **LB 11-11, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE HUMAN RESOURCES DEPARTMENT ON BEHALF OF AFSCME LOCAL 624, BLUE COLLAR EMPLOYEES OF THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT BY INITIATING THE LEAD DRIVER CLASIFICATION WITHOUT NEGOTIATING. (Rocky Gutierrez, AFSCME)**

Jason Barnett with German and Associates appeared on behalf of the City and with him John Soliday, Director of Solid Waste Department. Rocky Gutierrez appeared on behalf of AFSCME Council 18 and with him was Casey Padilla, President of Local 624. Mr. Gutierrez stated that in May 2011 the solid waste management department classified the position of B31. He stated that in May 2011 the department created the B31 position and had only discussed it with the union but did not give them any details and that there was changes implemented to the terms and conditions in the collective bargaining agreement. He stated that the Collective Bargaining Agreement had expired in June 2010 but there was a court order of injunction and the City was obligated to follow the agreement. He asked the Board to order the City to sit down with the union and negotiate the terms different in the collective bargaining agreement. Mr. Barnett stated that the Board has already granted the City's Motion for Summary Judgment as it relates to the creation of the position. He stated that the created of the position is within the scope of authority and management rights and it has been the City's past practice. He stated that under section 18 of the collective bargaining agreement the process is laid out and stated that issues should be addressed at department level and that did not happen and asked the Board to dismiss the complaint. Witnesses called to testify were John Soliday, Dwayne David Mier and Casey Padilla. Exhibits entered were union's exhibits A, B, and C.

This matter was continued for April 20, 2015.

X. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Ms. Chappell seconded. Motion 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

Monday, March 16, 2015

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

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Nick Bullock
Melissa Kountz
Kellie Garcia
Marie Legrand-Miller
Fred Mowrer
Melissa O'Connell*

*Robert Montoya
Shane Youtz
Jessica Enriquez*

MINUTES

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

I. CALL TO ORDER.

Chairman Patrick Halter called the meeting to order at 9:10 a.m. All members were present.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, MARCH 16, 2015.

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 FEBRUARY 23, 2015.

Chairman Halter made a motion to approve both the morning and afternoon minutes for February 23, 2015. Juan Montoya seconded. Motion passed 3-0.

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

Chairman Halter asked the parties to meet to discuss LB 11-11 prior to the merits hearing on March 30, 2015 and he suggested removing the item as hearing on the agenda until the parties meet.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that LB 11-11 is being handled by outside council, German and Associates. She asked the Board to proceed with the matter scheduled for hearing since this matter is four years old and the city is ready to proceed.

Chairman Halter ordered the parties to discuss and narrow the issues on the merits prior to meeting.

Rocky Gutierrez was not present but Shane Youtz appeared on behalf of AFSCME and stated that he will forward the comments to Rocky Gutierrez.

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

Chairman Halter made a motion to approve three Order of Dismissal's in LB 14-27, LB 11-21 and LB-ARB-13-01. Juan Montoya seconded. Motion passed 3-0.

VI. MOTIONS:

• **LB 12-08, CITY'S MOTION TO DISMISS. (PAUL LIVINGSTON on behalf of NMTU)**

Jessica Enriquez, City Hearing Monitor stated that Robert Gutierrez called before the meeting and stated that neither he nor Paul Livingston would be present for this meeting. However, he is requesting that this matter and LB 15-03 go forward and be scheduled for a hearing.

Kelly Garcia, Assistant City Attorney appeared on behalf of the City of Albuquerque and briefed the case. She stated that the city filed a Motion to Dismiss based on the grounds that the collective bargaining agreement referenced in this complaint had expired and NMTU is no longer a valid bargaining unit and does not have standing to represent employees with contractual issues. She stated that the same exact issue was addressed in LB 12-02 and was found that no prohibited practice complaint had occurred. City request LB 12-08 be dismissed.

Chairman Halter made a motion to dismiss LB 12-08. Susan Chappell seconded. Motion passed 3-0.

• **LB 15-01, CITY'S MOTION FOR ENLARGEMENT OF TIME TO FILE DISPOSITIVE MOTION. (ROBERT MONTOYA, Petitioner)**

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that the City is currently investigating but needs more time to investigate because there are several types of complaints in this matter. She asked the Board to schedule matter for a merits hearing and allow the city to file Dispositive Motions thirty days prior to hearing.

Robert Montoya appeared and stated that there are time frames that need to be followed and since filing his grievance he has not received fair treatment.

Chairman Halter made a motion to schedule this matter for May 18, 2015 and the city has thirty days to file dispositive motions and the respondent can respond prior to the hearing. Juan Montoya seconded. Motion passed 3-0.

• **LB 15-02, CITY'S MOTION TO DISMISS. (MELISSA O'CONNELL, Petitioner)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and moved to dismiss this matter due to lack of jurisdiction. She stated that Ms. O'Connell's complaint is limited to two counts of violation and is not part of the LMRO or collective bargaining agreement. Section 903 of the Personnel Rules and Regulations which are pursuant to merits system ordinance not the LMRO.

Melissa O'Connell appeared and stated that the base of the complaint was not a prohibited practice complaint and based on rules and regulations section 21.1.2 grievance process that advises to bring to Labor Management Board. She requests an exception because there is no other means to grieve this matter.

Ms. Kountz stated that the grievance in the Albuquerque Police Officer's Association contract and the collective bargaining agreement negotiated is limited and the Board does not have jurisdiction to make any exceptions.

Chairman Halter made a motion to dismiss LB 15-02 based on the Board not having jurisdiction to hear this matter. Susan Chappell seconded. Motion passed 3-0.

VII. NEW BUSINESS:

- **LB 15-03, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF NEW MEXICO TRANSPORTATION UNION. (PAUL LIVINGSTON and ROBERT GUTIERREZ on behalf of NMTU)**

Kelly Garcia, Assistant City Attorney for the City of Albuquerque stated that the city filed a Motion to Dismiss and a Motion to Preclude Mr. Livingston as representative in LB 15-03 and any future Labor Board matters.

Shane Youtz, appeared on behalf of AFSCME and stated that the union concurs with the city's Motion to Dismiss.

Chairman Halter made a motion to dismiss LB 15-03. Juan Montoya seconded. Motion passed 3-0.

- **LB 15-05, TOMOYOSHI STEWARD, 32-HOUR SUSPENSION; 16-HOURS TO BE SERVED AND 16-HOURS TO BE HELD IN ABEYANCE FOR 6-MONTHS I-110-114. (STEPHANIE LOPEZ, APOA)**

Fred Mowrer, appeared on behalf of APOA and presented an Order to Withdrawal LB 15-05 because matter is being processed differently.

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

VIII. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Susan Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 9:37 a.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

March 30, 2015
DATE

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



LABOR-MANAGEMENT RELATIONS BOARD

Monday, February 23, 2015

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

HEARING ROOM 1

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Nick Bullock
Marie Legrand-Miller
Rocky Gutierrez
Brittany Lopez
Robert Griego
Lou Hoffman
Carla Navarrette
Jessica Enriquez*

MINUTES FOR

MORNING AGENDA

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

I. CALL TO ORDER.

Chairman Patrick Halter called the meeting to order at 9:04 a.m. All members were present.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, FEBRUARY 23, 2015.

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

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR FEBRUARY 2, 2015.

Chairman Halter made a motion to approve the minutes for February 2, 2015. Juan Montoya seconded. Motion passed 3-0.

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

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City of Albuquerque and asked the Board to schedule LB 11-11 for March 16, 2015. Rocky Gutierrez appeared on behalf of AFSCME 624 and stated that he will not be available for March 16th but can be prepared for March 30, 2015.

Matter will be scheduled for March 30, 2015.

V. STATUS REVIEW IN LB 12-22 (AFSCME)

Chairman Halter made a motion to approve the Stipulated Motion to Dismiss that was submitted by the parties. Ms. Chappell seconded. Motion passed 3-0.

VI. LB 12-31, AFSCME'S RESPONSE TO CITY'S MOTION TO DISMISS.

Chairman Halter made a motion to grant the Stipulated Motion to Vacate and Reset. Mr. Montoya seconded. Motion passed 3-0.

VII. LB 14-23, REVIEW OF CITY'S AMENDED ANSWER TO PROHIBITED PRACTICE COMPLAINT, POSITION STATEMENT AND MOTION FOR DISMISSAL.

Rocky Gutierrez appeared on behalf of AFSCME and stated that this matter has been settled and they voluntarily dismiss this matter. Marie Legrand-Miller on behalf of the City of Albuquerque did not object to the voluntary dismissal. Chairman Halter stated that this matter is closed per AFSCME's verbal dismissal and the Board will take no further action on this matter.

VIII. MERITS HEARING

• CONTINUATION OF LB 11-26 STEP III GRIEVANCE ON BEHALF OF DEPARTMENT OF FINANCE EMPLOYEE CARLA NAVARRETTE, DENIED SELECTION OF PROMOTION PROCESS. (ROCKY GUTIERREZ, AFSCME)

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City of Albuquerque. Rocky Gutierrez appeared on behalf of AFSCME and Carla Navarrete who was also present.

The City called their witness Robert Griego to testify. Mr. Griego was sworn in by Chairman Halter. Ms. Legrand-Miller questioned Griego of his knowledge of the issue involving the c-series per the collective bargaining agreement. Mr. Griego stated that Ms. Navarrete is a clerical employee and he discussed the clerical series contract and the M-series contract. He stated that an employee can be temporarily upgraded when a position is vacant but there is nothing in the contracts that says that the person doing the temporarily upgrade has to be hired for the position.

The City called their witness to testify Lou Hoffman, Director of Finance. He stated that he has known Ms. Navarrete for twenty five years. He explained his knowledge of the temporarily upgrade process and his involvement with the process.

Parties will submit Written Briefs on or by March 13, 2015 and this matter will be scheduled on the agenda for March 30, 2015.

IX. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and the meeting was adjourned at 9:53 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, February 23, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock
Kathy Levy
Fred Mowrer
John D'Amato
Jessica Enriquez

MINUTES FOR

AFTERNOON AGENDA

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

- I. **CALL TO ORDER.**
Chairman Patrick Halter called the meeting to order at 1:00 p.m. All members were present.
- II. **REVIEW AND APPROVAL OF AGENDA FOR MONDAY, FEBRUARY 23, 2015.**
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 FEBRUARY 2, 2015.**
Minutes were approved at the morning meeting. See morning agenda for February 23, 2015.
- IV. **PUBLIC COMMENTS *Limited to three (3) minutes total time per person.**
No Public Comments
- V. **SCHEDULING OF CASES FOR HEARING IN:**
 - **LB 12-26 (JOHN D'AMATO)**
John D'Amato appeared on behalf of APOA and Kathy Levy, Assistant City Attorney appeared on behalf of the City of Albuquerque. Parties discussed scheduling and will file a certificate of readiness with the Board when they are prepared to schedule this matter for hearing.
 - **LB 13-12 (JOHN D'AMATO)**
John D'Amato appeared on behalf of APOA and Kathy Levy, Assistant City Attorney appeared on behalf of the City of Albuquerque. Mr. D'Amato stated that the parties have agreed to defer any action on this matter until closing of law enforcement academy board decision. The parties will file certificate of readiness with the Board for scheduling.
 - **LB 14-26 (FRED MOWRER, APOA)**
Fred Mowrer appeared on behalf of APOA and Kathy Levy, Assistant City Attorney appeared on behalf of the City of Albuquerque. Mr. Mowrer and asked the Board to put off scheduling

of this matter for 60 days because this matter may be resolved or facts may be clarified. Mr. Mowrer will notify the Hearing Monitor, Jessica Enriquez when he is prepared to go forward with this matter.

VI. MERITS HEARING

- **LB 14-13 ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS BY IMPLEMENTING A NEW BID SCHEDULE FOR LIEUTENANTS. (FRED MOWRER, APOA)**

Fred Mowrer appeared on behalf of APOA and Kathy Levy, Assistant City Attorney appeared on behalf of the City of Albuquerque. Chairman Halter made a motion to grant the Stipulated Order of Dismissal. Susan Chappell seconded. Motion passed 3-0.

VII. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Ms. Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 1:07 p.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

3/16/15
DATE

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



LABOR-MANAGEMENT RELATIONS BOARD
Monday, February 2, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock
Samantha Hults
Kellie Garcia
Marie Legrand-Miller
Jessica Enriquez

MINUTES

- PO Box 1293
- Albuquerque
- New Mexico 87103
- www.cabq.gov
- 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, FEBRUARY 2, 2015.**
Chairman Halter made a motion to approve the agenda. Susan Chappell seconded. Motion passed 3-0.
 - III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JANUARY 26, 2015.**
Chairman Halter made a motion to approve the minutes. Ms. Chappell seconded. Motion passed 3-0.
 - IV. PUBLIC COMMENTS *Limited to three (3) minutes total time per person.**
Marie Legrand-Miller, Assistant City Attorney asked the Board to schedule the continuance of merits hearing in LB 11-26. Chairman Halter stated that LB 11-26 will be scheduled for merits hearing on February 23, 2015.

Chairman Halter mentioned that the oldest cases still open and pending are UTU cases LB 07-01, LB 07-12 and LB 00-12 and suggested that the parties should discuss these cases.

Chairman Halter discussed the Labor Board Rules and suggested that the Board should look at the Rules and stated that anyone who has any suggestions for revision should put them in writing. He asked if the parties have talked about it. Samantha Hults, Assistant City Attorney stated that they have not discussed this matter. Chairman Halter stated that the discussion of Rules will be discussed at a future meeting.

Chairman Halter stated that the Board will be scheduling one merit hearing per meeting due to time consumed by each hearing.

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

LB 14-02 Order of Dismissal was addressed at the last meeting but Board forgot to sign Order.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and stated that the Board granted the City's Motion to Consolidate LB 13-28 and LB 14-03 and the Order was submitted to the Union but they have not received a response. Chairman Halter made a motion to approve the Order to Consolidate LB 13-28 and LB 14-03. Juan Montoya seconded. Motion passed 3-0.

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City and stated that in LB 07-26 Order of Dismissal she did not seek approval from anyone since it is a NMTU case. Chairman Halter made a motion to approve the Order of Dismissal in LB 11-26. Ms. Chappell seconded. Motion passed 3-0.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City in LB 11-06 Order of Dismissal and stated that she has not received a response from the Union. This matter was scheduled for December 1, 2014 and the Board dismissed the case. Chairman Halter made a motion to approve the Order of Dismissal. Mr. Montoya seconded. Motion passed 3-0.

VI. MERITS HEARINGS.

- **LB 14-12 AND LB 14-02 (CONSOLIDATED) PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE'S POLICE DEPARTMENT FOR VIOLATION OF CONTRACTUAL OBLIGATIONS. (FRED MOWRER, APOA)**

Parties submitted a Stipulated Motion to Vacate Hearing. Chairman Halter made a motion to approve the Motion to Vacate. Ms. Chappell seconded. Motion passed 3-0.

- **LB 14-25 PROHIBITED PRACTICE COMPLAINT ON BEHALF OF THE ALBUQUERQUE POLICE OFFICER'S ASSOCIATION AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR CHANGING THE METHOD OF CONDUCTING A BID PROCESS. (FRED MOWRER, APOA)**

Parties submitted a Stipulated Motion to Vacate Hearing. Chairman Halter made a motion to approve the Motion to Vacate. Mr. Montoya seconded. Motion passed 3-0.

VII. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Ms. Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 9:12 a.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

2,23,2015
DATE

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



LABOR-MANAGEMENT RELATIONS BOARD
Monday, January 26, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock
Samantha Hults
Kellie Garcia
Marie Legrand-Miller
Melissa Kountz
Jessica Enriquez

MINUTES

PO Box 1293

I. CALL TO ORDER.

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

Albuquerque

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JANUARY 26, 2015.

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

New Mexico 87103

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JANUARY 12, 2015.

Chairman Halter made a motion to approve the minutes for January 12, 2015. Juan Montoya seconded. Motion passed 3-0.

www.cabq.gov

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

No public comments.

V. SCHEDULING OF CASES FOR HEARING IN LB 12-26, LB 13-12 (JOHN D'AMATO) AND LB 14-26. (FRED MOWRER, APOA)

Samantha Hults, Assistant City Attorney appeared on behalf of the City and on behalf of Assistant City Attorney Kathy Levy. No one was present for APOA. Items will be rescheduled to February 23, 2015.

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

Chairman Halter made a motion to approve the Stipulated Order of Dismissal in LB 08-46. Mr. Montoya seconded. Motion passed 3-0.

Chairman Halter made a motion to approve the Order to Administratively Close LB 06-27. Mr. Montoya seconded. Motion passed 3-0.

Chairman Halter made a motion to approve Order to Administratively Close LB-36. Ms. Chappell seconded. Motion passed 3-0.

Chairman Halter made a motion to approve the Unopposed Motion to Vacate and Reset LB 12-23, LB 12-31, LB 13-28 consolidated with LB 14-03, LB 14-24 and LB 14-14 currently scheduled for February 2, 2015. Mr. Montoya seconded. Motion passed 3-0.

VII. LB-ARB-13-01, RESPONSE TO REQUEST FOR ARBITRATIONS. (AFSCME LOCAL 624).

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that the City chooses not to consent to arbitration and has the right per the LMRO. The CBA has not been signed by the required parties and the CBA was ratified last week and this matter is mute. Chairman Halter made a motion to grant the City's request to dismiss. Mr. Montoya seconded. Motion passed 3-0.

VIII. LB 11-21, CITY'S SUPPLEMENTAL REPLY TO UNION'S RESPONSE TO MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT. (ROCKY GUTIERREZ, AFSCME LOCAL 624)

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and stated that the City's position is that there was no issue because all employees met qualification and seniority was not required per the LMRO section 3-1-1A. Chairman Halter made a motion to grant the City's Motion for Summary Judgment. Ms. Chappell seconded. Motion passed 3-0.

IX. STATUS REVIEW OF CASES.

- **LB 12-22 (AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the City. No one was present on behalf of AFSCME. Matter rescheduled for February 23, 2015.
- **LB 12-31 (AFSCME)**
Ms. Kountz appeared on behalf of the City and stated that there is a pending Motion for Summary Judgment. Matter will be scheduled for February 23, 2015.
- **LB 12-23 (TRANSIT)**
Chairman Halter made a motion to grant the Stipulated Order of Dismissal. Mr. Montoya seconded. Motion passed 3-0.

X. MOTIONS AND ORDERS.

- **LB 14-02, PETITIONER'S SECOND MOTION TO AMEND PPC AND ANY WRITTEN RESPONSES THERETO FROM RESPONDENT. (FRED MOWRER, APOA)**
Jessica Enriquez, City Hearing Monitor stated that Mr. Mowrer's office sent an email requesting to continue this matter. Chairman Halter stated that a response has not been received by the City and he made a motion to grant the Motion to Amend PPC. Mr. Montoya second. Motion passed 3-0.
- **LB 07-26, CITY'S MOTION TO DISMISS. (NMTU)**
Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City. No one was present on behalf of NMTU. Chairman Halter made a motion to grant the City's Motion to Dismiss. Ms. Chappell seconded. Motion passed 3-0.
- **LB 08-35, REVIEW OF THE ORDER. (ROCKY GUTIERREZ, AFSCME)**
Samantha Hults, Assistant City Attorney appeared on behalf of the City. No one was present on behalf of AFSCME. Ms. Hults stated that Mr. Gutierrez does not oppose the Order as he previously stated on the record. Chairman Halter made a motion to adopt the Order. Ms. Chappell seconded. Motion passed 3-0.

XI. MERITS HEARING.

- **LB 13-23, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE, ALBUQUERQUE POLICE DEPARTMENT AND CHIEF ALLEN BANKS FOR VIOLATION OF CONTRACTUAL OBLIGATIONS. (FRED MOWRER, APOA)**
Parties submitted a Stipulated Motion to Vacate in this matter. Chairman Halter made a motion to grant the Stipulated Order to Vacate. Ms. Chappell seconded. Motion passed 3-0.

XII. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0 and the meeting was adjourned at 1:20 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, January 12, 2015

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

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

<i>Nick Bullock</i>	<i>Rocky Gutierrez</i>
<i>Samantha Hulst</i>	<i>Deb Rainaldi</i>
<i>Kellie Garcia</i>	<i>Shane Youtz</i>
<i>Marie Legrand-Miller</i>	<i>Adrian Terry</i>
<i>Melissa Kountz</i>	<i>Connie Derr</i>
<i>Olivia Padilla Jackson</i>	<i>Vernon Staton</i>
<i>Jessica Enriquez</i>	

MINUTES

I. CALL TO ORDER.

Meeting was called to order by Chairman Patrick Halter at 9:00 a.m. All members were present.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, JANUARY 12, 2015.

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 DECEMBER 15, 2014.

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

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

Chairman Halter announced that the meeting scheduled for February 16, 2015 has been rescheduled for February 23, 2015.

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

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and stated that she spoke with Steve Griego from AFSCME and they have stipulated to the dismissal of LB 14-29. Chairman Halter made a motion to approve the dismissal of LB 14-29. Susan Chappell seconded. Motion passed 3-0.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and stated that the City and James Montalbano have agreed to reschedule LB 14-11 (consolidated with LB 13-14 and LB 12-32). Chairman Halter made a motion to approve the Motion to Vacate Hearing for January 26, 2015. Mr. Montoya seconded. Motion passed 3-0. This matter has been reset for March 30, 2015.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME. Ms. Kountz stated that the parties have agreed to vacate LB 12-22 scheduled on item X, January 12, 2015 for a merits hearing. She asked the Board to schedule this matter for status on January 26, 2015. Chairman Halter made a motion to grant the Motion to Vacate. Mr. Montoya seconded. Motion passed 3-0. This matter will be scheduled for status on January 26, 2015.

VI. MOTIONS AND ORDERS.

- **LB 10-14, PROPOSED ORDER OF DISMISSAL. (ROCKY GUTIERREZ, AFSCME)**
Samantha Hults, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME. Ms. Hults stated that the City prepared the Order of Dismissal when Mr. Jaramillo failed to appear in this matter. Mr. Gutierrez stated that he does not oppose to the Order. Chairman Halter made a motion to approve the Order of Dismissal. Ms. Chappell seconded. Motion passed 3-0.

- **LB 14-28, CITY'S MOTION FOR MORE DEFINITE STATEMENT AND MOTION TO STAY TIME LIMITS FOR DISPOSITIVE MOTIONS. (ROCKY GUTIERREZ, AFSCME)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME Local 624. Ms. Garcia stated that the City has requested a More Definite Statement because the facts and allegations in the prohibited practice complaint are vague and unspecific. Mr. Gutierrez stated that there has been no direct contact to the Union from the City and he objects to any enlarging of the time limits for filing any dispositive motions. He asked the Board to deny the City's Motion for More Definite Statement. Ms. Garcia stated that the City filed Written Motion requesting information from the Union and the Motions have been filed timely. She asked the Board to grant the City's Motion for More Definite Statement and the Motion to Stay Time Limits. Ms. Chappell made a motion to grant the City's Motion for More Definite Statement and the Motion to Stay of Time Limits. Chairman Halter seconded. Motion passed 3-0. The Motion for More Definite Statement is due by February 15, 2015 and the City will have 30 days from the date they receive the Motion to respond.

- **LB 14-24, CITY'S MOTION FOR SUMMARY JUDGMENT. (GARY ALLEN, AFSCME)**
Ms. Garcia appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME. Ms. Garcia presented the City's Motion for Summary Judgment and stated that the Union has raised issues that were not included in the prohibited practice complaint. She stated that the Union did not respond to the City's Motion for Summary Judgment. Mr. Gutierrez stated that there are disputed facts and asked the Board to deny the City's Motion and set this matter for a hearing. Mr. Montoya moved to deny the City's Motion. Ms. Chappell made a motion to grant the City's Motion. Chairman Halter seconded Mr. Montoya's motion to deny the City's Motion for Summary Judgment. Motion passed 2-1. Chairman Halter scheduled this matter for a hearing on February 2, 2015 and directed the parties to meet prior to the hearing.

VII. STATUS REVIEW IN LB 06-27, LB 06-36, LB 99-08 AND LB 99-14. (AFSCME LOCALS 624, 2962, 3022)

Kellie Garcia, Assistant City Attorney appeared on behalf of the City in LB 06-27 and stated that in the minutes from August 7, 2007, there was a Motion to Dismiss that passed 2-1 but the Board never issued a Decision. She stated that she spoke with Casey Padilla and he does not oppose to the City's Motion to Close LB 06-27. She will draft an Order for the Board to sign.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City in LB 06-36 and stated that in the minutes from September 17, 2007 the City filed a Motion to Dismiss and the Board untimely moved to Dismiss based on standing and the Union was given 30 days to refile but never refiled. She moved to administratively close LB 06-36. Rocky Gutierrez appeared on behalf of Casey Padilla and AFSCME Local 624 and stated that they do not object to the City's Motion to Close.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME in LB 99-08. The parties agreed to a Stipulated Motion to Dismiss. Chairman Halter made a motion to approve the Stipulated Order of Dismissal in LB 99-08. Ms. Chappell seconded. Motion passed 3-0.

Kellie Garcia, Assistant City Attorney appeared on behalf of the City in LB 99-14 and stated that the prohibited practice complaint was filed by United Transportation Union who is no longer the recognized bargaining unit for transit employees and by Paul Livingston who is no longer licensed to practice law. She stated that there was a hearing in 2001 that was vacated because the parties failed to pay the hearing fee and since then nothing has happen. She stated that Mr. Livingston was notified in early December of this agenda and did not appear. The City moved to Dismiss on the bases that the representative no longer tried to pursue and therefore is mute and UTU is no longer the bargaining representative for City Transit Employees. Chairman Halter made a motion to dismiss. Mr. Montoya seconded. Motion passed 3-0.

VIII. REVIEW OF THE PROPOSED ORDER IN LB 08-35. (ROCKY GUTIERREZ, AFSCME)

Samantha Hults, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME. The parties agreed to the Order and Ms. Hults will submit a clean copy to the Board for review.

IX. REVIEW OF NMTU REQUEST FOR RECOGNITION, BRIEFS AND REPLY BRIEFS FILED BY NMTU, AFSCME AND/ OR THE CITY IN LB 14-27.

Adrian Terry, Attorney appeared on behalf of NMTU and stated that NMTU has filed a request for recognition to be the certified exclusive bargaining unit for transit employees. He stated that NMTU followed the City Ordinance in submitting its request and AFSCME opposes the request on the bases that a request was not filed in a window of time or does not exist. His position was that the request is proper per the City Ordinances and requested a hearing. Shane Youtz appeared on behalf of AFSCME and argued that the Board has a rule to follow which is Ordinance 3-2-6J and stated that there is an injunction per a District Court Judge between AFSCME and the City to honor the collective bargaining agreement in affect. Samantha Hults, Assistant City Attorney appeared on behalf of the City and stated that all the City wants to know is who they should recognize as the representative. Ms. Chappell made a motion to deny NMTU's request for recognition. Chairman Halter seconded. Motion passed 3-0.

X. MERITS HEARINGS.

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

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME and Carla Navarrette. There was a long discussion and argument regarding the process and procedures of City employee witnesses being notified to appear to testify for merits hearings. Mr. Gutierrez briefed the case and stated that Ms. Navarrette applied for the position of Accountant 1 and was not selected for the position. He stated that she met all the requirements and qualifications and had fourteen years of accounting experience and twenty five years of relevant accounting g experience with the City but the position was given to an external candidate and because of that the City violated the Collective Bargaining Agreement section 20.1.2. Mr. Gutierrez called witnesses Trina McMahan, Arthur Montoya, Lou Hoffman, Deb Rainaldi, Casey Padilla, Mary Scott and Carla Navarrette.

This hearing was continued to January 26, 2015.

• **LB 12-22 STEP III GRIEVANCE ON BEHALF OF ANNETTE GOMEZ AGAINST THE CITY OF ALBUQUERQUE FAMILY AND COMMUNITY SERVICES DEPARTMENT FOR WORKING OUTSIDE OF HER CLASSIFICATION WITHOUT COMPENSATION. (ROCKY GUTIERREZ, AFSCME)**

Matter continued to January 26, 2015. See item V.

XI. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Mr. Montoya seconded. Motion passed 3-0. Meeting was adjourned at 3:47 p.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

JUN 26, 2015
DATE

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