LABOR-MANAGEMENT RELATIONS BOARD
Monday, November 27, 2017
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:	*OTHERS PRESENT:*	
Chairman Ted Baca	*Eric Locher*	*Rocky Gutierrez*
Juan Montoya	*Ian Stoker*	*James Montalbano*
Michael Wartell	*Melissa Kountz*	*Victor Lovato*
	Bobby Griego	*Tomas Romero*
	Jessica Enriquez	

Minutes

I. CALL TO ORDER.

Chairman Ted Baca called the meeting to order at 9:00 a.m. Board members Juan Montoya and Michael Wartell were also present.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, NOVEMBER 27, 2017.

Chairman Baca stated that the Orders for LB 15-35 and LB 16-15 which are listed in item V. and VIII, were previously signed at the November 20, 2017 Board meeting. Chairman Baca also stated that item III in LB 15-28, the City filed a Motion to Dismiss and not a Motion for Summary Judgment as worded on agenda. Mr. Montoya then moved to approve the agenda for November 27, 2017. Mr. Wartell seconded. Vote taken and passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR NOVEMBER 20, 2017.

Mr. Wartell moved to approve the minutes for November 20, 2017. Mr. Montoya seconded. Vote taken and passed 3-0.

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

Melissa Kountz, Assistant City Attorney appeared and submitted to the Board an Order on the Motion to Vacate in LB 10-19. The Board approved and signed the Order. Chairman Baca stated that LB 10-19 has been rescheduled for Motion Hearing on November 29, 2017.

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

- **LB 16-15, ORDER GRANTING STIPULATED MOTION TO LIFT STAY.**
  See item II.

VI. PRESENTMENT OF ORDERS.

- **LB 15-35, ORDER ON PROHIBITED PRACTICE COMPLAINT.**
  See item II and item IV.

VII. LB 11-01, CITY'S SUPPLEMENTAL BRIEF AND UNION'S RESPONSE. (STEPHEN CURTICE, YOUTZ & VALDE)

James Montalbano, Attorney appeared on behalf of AFSCME. Melissa Kountz, Assistant City Attorney appeared on behalf of the City. The Union submitted a Motion to Withdraw. Mr. Montalbano presented the Union's Motion to withdraw the complaint and asked the Board to reconsider imposing the $500.00 fine that was imposed to the Union for failure to file a response. Ms. Kountz stated that the City does not oppose the Union's Motion to Withdraw but does oppose the Union's request to reconsider the fine imposed of $500.00. Mr. Montoya moved to accept the Motion to Withdraw the complaint and for the Board to not impose the $500.00 fine. Chairman Baca seconded. Vote taken and passed 3-0.

VIII. MOTIONS HEARING:

- **LB 17-07, CITY'S MOTION TO DISMISS FOR LACK OF JURISDICTION AND MOTION FOR SUMMARY JUDGMENT AND PETITIONER'S RESPONSE TO CITY'S MOTION TO DISMISS. (JAMES MONTALBANO, YOUTZ & VALDEZ)**

  Ian Stoker, Assistant City Attorney appeared on behalf of the City. James Montalbano, Attorney appeared on behalf of AFSCME. Mr. Stoker stated that the City's Motion to Dismiss was previously argued and decided on by the Board. He stated that the City also filed a Motion for Summary Judgment and the Union has not filed a Response. Mr. Montalbano stated that the Union filed a response to the City's Motion to Dismiss and that was resolved but was not given a deadline to file a Response to the Motion for Summary Judgment. He asked the Board to allow the Union to file a Response and reset this matter. Mr. Montoya moved to continue this matter and allow the Union to file a Response to the Motion for Summary Judgment. Chairman Baca seconded. Voted and passed 3-0. Chairman Baca stated that the Union's deadline to file a Response is December 7, 2017 and the City's Reply is due on December 18, 2017. The Board voted unanimously to approve the City's Motion for Summary Judgment and this matter will be scheduled for December 7, 2017 for scheduling of motions hearing.

- **LB 15-01, CITY'S MOTION TO DISMISS AND PETITIONER'S RESPONSE TO CITY'S MOTION. (AFSCME LOCAL 624 ROBERT RIVERA)**

  Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. The parties stated that they have discussed and agreed on a settlement in this matter and are just waiting for final approval and signing of the settlement from the City Attorney. Mr. Montoya moved to continue this matter. Mr. Wartell seconded. Voted and passed 3-0. This matter is rescheduled for status on Wednesday, November 29, 2017.

- **LB 15-25, CITY'S MOTION TO DISMISS AND AFSCME'S RESPONSE TO CITY'S MOTION TO DISMISS. (AFSCME LOCAL 1888 TOMAS ROMERO)**

  Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. Ms. Kountz stated that the City previously withdrew the Motion to Dismiss orally at a prior Labor Board meeting in March. She stated that the Union does not object to the withdrawal and this matter can be scheduled for merits hearing. Mr. Montoya moved to approve the Motion to Withdraw. Mr. Wartell seconded. Vote taken and passed 3-0.

- **LB 15-28, CITY'S MOTION FOR SUMMARY JUDGMENT AND AFSCME'S RESPONSE TO CITY'S MOTION FOR SUMMARY JUDGMENT. (AFSCME LOCAL 624 CASEY PADILLA)**

  Chairman Baca stated that there is a correction to the Motion listed. The City filed a Motion to Dismiss and not a Motion for Summary Judgment. Ian Stoker, Assistant City Attorney appeared on behalf of the City and presented the City's Motion to Dismiss.

Rocky Gutierrez appeared on behalf of AFSCME and argued the Motion to Dismiss.

Mr. Wartell 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. Mr. Montoya seconded. A roll call vote was taken and passed 3-0.

Mr. Wartell 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. He stated that the Board was in closed session to discuss LB 15-28 and no other cases were discussed.

Chairman Baca moved to grant the City's Motion to Dismiss regarding the issue of retaliation in the complaint but hold in abeyance the issue of just cause and direct the Petitioner to file a More Definite Statement. Mr. Wartell seconded. Vote taken and passed 3-0. The Petitioner's More Definite Statement is due by December 22, 2017.

- **LB 15-29, CITY'S MOTION TO DISMISS AND AFSCME'S RESPONSE TO CITY'S MOTION TO DISMISS. (AFSCME LOCAL 624 ROCKY GUTIERREZ)**
  Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. Ms. Kountz presented the City's Motion to Dismiss. Mr. Gutierrez presented the Union's Response to the Motion to Dismiss. Both parties gave a brief argument.

  Mr. Wartell 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. Mr. Montoya seconded. A roll call vote was taken and passed 3-0.

  Mr. Wartell 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 Baca stated that the Board was in closed session to discuss LB 15-29 and no other cases were discussed.

  Chairman Baca moved to approve the City's Motion to Dismissed but denied the City's Motion for Summary Judgment. Mr. Montoya seconded. Vote taken and passed 3-0.

IX. ADJOURNMENT.

Mr. Montoya moved to adjourn the meeting. Mr. Wartell seconded and passed 3-0. The meeting was adjourned at 12:19 p.m.

APPROVED:

_____ _____

TED BACA, CHAIR **DATE**
City Labor Management Relations Board

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