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

MEMBERS PRESENT:
Chairman Ted Baca
Juan Montoya
Michael Wartell

OTHERS PRESENT:
Nicholas Bullock
Samantha Hults
Melissa Kountz
Philomena Hausler
Kellie Garcia
Bobby Griego
Rocky Gutierrez
Tomas Romero
Jessica Enriquez

Minutes

I. CALL TO ORDER.

Chairman Ted Baca called the meeting to order at 9:00 a.m. All Board members were present.

II. REVIEW AND APPROVAL OF AGENDA FOR THURSDAY, MARCH 2, 2017.

Juan Montoya moved to approve the agenda for March 2, 2017. Michael Wartell seconded. Passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR FEBRUARY 13, 2017.

Mr. Montoya moved to approve the minutes for February 13, 2017. Mr. Wartell seconded. Passed 3-0.

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

Philemina Hausler, Assistant City Attorney stated that the City would like the board to consider putting in place deadlines for the filing of Responses when the City files Dispositive Motions. She stated that she has filed several Dispositive Motions in 2016 and there has been no Responses. Rocky Gutierrez, AFSCME Representative stated that on behalf of AFSCME he has discussed with the local presidents that they must reply in a timely manner to Motions received and moving forward the Union will respond to any Motions submitted. There was a brief discussion regarding deadlines currently in place for some AFSCME cases. Samantha Hults, Assistant City Attorney stated that the Labor Board Rules and Regulations have not been updated for several years and suggested that the Board speak with their attorney to discuss the process for revising the Rules and Regulations. Chairman Baca stated that the Board will review the Labor Board Rules and Regulations and after a discussion with the board's attorney they will consider amending the Rules and Regulations and it will be placed on a future public meeting agenda.

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

None.

VI. MOTION'S HEARING:

- **LB 15-09 PROHIBITED PRACTICE COMPLAINT. (AFSCME 1888, TOMAS ROMERO)**

  Kellie Garcia, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. Ms. Garcia presented the City's Motion for Summary Judgment that was filed in May 2015. Rock Gutierrez presented the Union's response.

  Juan Montoya 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. Wartell seconded. A roll call vote was taken and the Motion passed 3-0.

  Mr. Montoya 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. Wartell seconded. A roll call vote was taken and the Motion passed 3-0. Mr. Montoya stated that the Board was in closed session to discuss LB 15-09 and no other cases were discussed.

  Chairman Baca stated that the Board voted unanimously to deny the City's Motion for Summary Judgement. A role call was taken and passed 3-0.

- **LB 15-16 PROHIBITED PRACTICE COMPLAINT. (AFSCME 1888, MICHAEL DORIN)**

  Rocky Gutierrez appeared on behalf of AFSCME Local 2962. Kellie Garcia, Assistant City Attorney appeared on behalf of the City. Ms. Garcia stated that the City filed a Motion to Dismiss and a Motion for Summary Judgement. Mr. Gutierrez stated that the Union had no record of the Motions and therefore could not provide a response to the Motions. He stated that the Union requested the case file from the Office of Administrative Hearings back in July 2016 and no Motions were in the file. Ms. Garcia responded and presented exhibits to provide to the board that the Motions were sent via- email to Michael Dorin, AFSCME Local 2962 President, in August 2015 both from herself and from Jessica Enriquez. Mr. Gutierrez stated that based on the dates provided by the City of filing their Motions, the Union argues that they were filed untimely and asked for an extension of time to file Responses. Ms. Garcia stated that the City objects to any request for extension of time to respond.

  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 the Motion 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 15-16 and no other cases were discussed.

Chairman Baca stated that the Board voted unanimously to grant the City's Motion to Dismiss and the Motion for Summary Judgment is moot. A roll call was taken and passed 3-0.

- **LB 15-18 STEP III GRIEVANCE. (AFSCME 1888, MICHAEL DORIN)**
  Rocky Gutierrez appeared on behalf of AFSCME Local 2962. Ian Stoker, Assistant City Attorney appeared on behalf of the city and presented the City's Motion to Dismiss the prohibited practice complaint. He stated that the City has filed a motion primarily on standing issue and the complaint did not state any employee that was actually affected by the over time required to work so therefore there was no injury or harm. Mr. Gutierrez responded with the Union's argument and stated that the city violated the collective bargaining agreement when the city did not negotiate changes and terms of conditions in regards to requiring doctor notes for sick leave.

  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 the Motion passed 3-0.

  Mr. Baca 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 15-18 and no other cases were discussed.

  Chairman Baca stated that the Board voted unanimously to grant the City's Motion to Dismiss and also the board's conclusion is that the Union does have standing regarding this matter. A roll call was taken and passed 3-0. Mr. Gutierrez asked the board to allow the Union to submit a motion to reconsider based on further argument or contract interpretation. Chairman Baca made a motion to allow the Union to file a Motion to Reconsider. Mr. Montoya seconded. Motion passed 2-1.

- **LB 15-25 STEP III GRIEVANCE. (AFSCME 1888, TOMAS ROMERO)**
  Samantha Hults, Assistant City Attorney stated that the City withdraws its Motion for Dismissal after reviewing the Union's response and the City is prepared to go to merits hearing on this case.

  A merits hearing will be scheduled for a future date.

- **LB 15-26 PROHIBITED PRACTICE COMPLAINT. (AFSCME 2962, MICHAEL DORIN)**
  Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSMCE Local 2962. Ms. Kountz presented the City's Motion to Dismiss and stated that two of the disputed facts in the complaint have been satisfied since the filing of this matter and the complaint is moot and should be dismissed. One factual dispute still in place is regarding applicants entitled to back pay. Mr. Gutierrez stated that relief has not been granted because the city has not implemented the bilingual differential program. He stated that the city has violated the collective bargaining agreement for refusing to implement the program and reimbursement of back pay from 2015.

Chairman Baca 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 the Motion passed 3-0.

Chairman Baca 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 15-26 and no other cases were discussed.

Chairman Baca moved to vote that the Board's conclusion is that both the City and the Union violated the collective bargaining agreement and because of this the Motion to Dismiss is denied. A hearing will be scheduled in the future regarding the back pay in dispute.

- **LB 16-01, STEP III GRIEVANCE. (AFSCME 1888, TOMAS ROMERO)**
  Mr. Montoya made a motion to continue this matter for March 21, 2017. Mr. Wartell seconded. Passed 3-0.

- **LB 16-03, STEP III GRIEVANCE, (AFSCME 1888, TOMAS ROMERO)**
  Mr. Montoya made a motion to continue this matter for March 21, 2017. Mr. Wartell seconded. Passed 3-0.

- **LB 16-19, STEP III GRIEVANCE. (AFSCME 1888, TOMAS ROMERO)**
  Mr. Montoya made a motion to continue this matter for March 21, 2017. Mr. Wartell seconded. Passed 3-0.

VII. ADJOURNMENT.

Mr. Montoya moved to adjourn the meeting. Mr. Wartell seconded. Passed 3-0.

APPROVED:

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

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