LABOR-MANAGEMENT RELATIONS BOARD
Tuesday, September 5, 2017
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:	*OTHERS PRESENT:*	
Chairman Ted Baca	*Eric Locher*	*Stephen Curtice*
Juan Montoya	*Kellie Garcia*	*Michael Dorin*
Michael Wartell	*Ian Stoker*	*Johanna Cox*
	Diane Kimberle	

Minutes

I. CALL TO ORDER.

Chairman Ted Baca called the meeting to order at 9:02 a.m. Board members Juan Montoya and Michael Wartell were also present.

II. REVIEW AND APPROVAL OF AGENDA FOR TUESDAY, SEPTEMBER 5, 2017.

Ian Stoker, Assistant City Attorney appeared and stated that Rocky Gutierrez contacted him to request a continuance for Item VII. LB 15-28. Mr. Stoker stated that the City does not oppose to the continuance. Chairman Baca vacated LB 15-28 and rescheduled it for September 15, 2017. Juan Montoya moved to approve the modified agenda. Mr. Wartell seconded. Vote taken and passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR AUGUST 7, 2017.

Michael Wartell moved to approve the minutes for August 7, 2017. Mr. Montoya seconded. Vote taken and 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.

- **LB 16-31, ORDER OF DISMISSAL.**
  Order was approved and signed by the Board members.

VI. PRESENTMENT OF ORDERS.

- **LB 12-20, ORDER ON CITY'S AMENDED ANSWER, POSITION STATEMENT, MOTION TO DISMISS AND MOTION FOR MORE DEFINITE STATEMENT.**
  Order was approved and signed by the Board members.

  LB 12-02, Order was entered by the parties and approved and signed by the Board members.

VII. MOTIONS HEARING:

- **LB 14-20, CITY'S MOTION TO CLARIFY THE BURDEN OF PROOF FOR MERITS HEARING. (AFSCME 2962)**

  Kellie Garcia, Assistant City Attorney appeared on behalf of the City. Attorney Stephen Curtice appeared on behalf of AFSCME. Ms. Garcia presented the City's Motion to Clarify the Burden of Proof for Merits Hearing. She stated that the City's position is that the Union has the burden of proof because the collective bargaining agreement states that the complaining party shall have the burden of proof. Mr. Curtice presented the Union's Response to the City's Motion to Clarify the Burden of Proof. He argued that the City has the burden of proof because it's a disciplinary and breach of contract compliant. Therefore, it is the burden of the employer to prove just cause.

  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. The Board was in closed session to discuss LB 14-20 and no other cases were discussed.

  Mr. Wartell move to find that the Board grants the City's Motion and the burden of proof falls on the Union. Mr. Montoya seconded. The Board voted and passed unanimously 3-0.

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

  Vacated and rescheduled to September 15, 2017. See item II.

- **LB 17-03, CITY'S MOTION TO DISMISS AND PETITIONER'S RESPONSE TO MOTION TO DISMISS.**

  Ian Stoker, Assistant City Attorney appeared on behalf of the City. Attorney Johanna Cox appeared on behalf of Luz Moore. Mr. Stoker presented the City's Motion to Dismiss. Ms. Cox presented the Petitioner's Response to the Motion to Dismiss. Both parties gave brief arguments and responses.

  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. The Board was in closed session to discuss LB 17-03 and no other cases were discussed.

  Chairman Baca moved to grant the City's Motion to Dismiss unless an amended prohibited practice complaint is filed within ten days from today's meeting. Mr. Wartell seconded. Vote taken and passed 3-0.

VIII. MERITS HEARING:

- **LB 15-35, STEP III GRIEVANCE FILED BY AFSCME LOCAL 2962 ON BEHALF OF POLICE DISPATCHER MARIANNE COLLADO EMPLOYED WITH THE CITY OF ALBUQUERQUE POLICE DEPARTMENT.**

  Kelly Garcia, Assistant City Attorney appeared on behalf of the City and with her was Erika Wilson, Police Communications Manager. Michael Dorin appeared on behalf of AFSCME. Witnesses called to testify were the Petitioner, Marianne Colado and Police Communications Supervisor, Stacy Apodaca. City's exhibits 1 through 16 were stipulated and admitted with the exception of exhibit 11. Union's exhibits A through D were stipulated and admitted.

  Chairman Baca ordered the parties to submit written closing arguments due by September 13, 2017 and will be placed on the September 15, 2017 agenda for review and decision.

IX. ADJOURNMENT.

Mr. Montoya moved to adjourn the meeting. Chairman Baca seconded. Voted and passed 3-0 and the meeting were adjourned at 1:15 p.m.

APPROVED:

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

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