LABOR-MANAGEMENT RELATIONS BOARD
Monday, September 18, 2017
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:
Chairman Ted Baca
Juan Montoya
Michael Wartell

OTHERS PRESENT:
Eric Locher
Kellie Garcia
Philemina Hausler
Samantha Hults
Ian Stoker
Bobby Griego
Michael Dorin
Rocky Gutierrez
James Montalbano
Patty French

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, SEPTEMBER 18, 2017.
Chairman Baca stated that cases LB 15-28 and LB 14-20 have been vacated because the parties submitted a stipulated Motion to Vacate. Mr. Montoya made a motion to approve the agenda with the changes. Mr. Wartell seconded and the motion passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR SEPTEMBER 5, 2017.
Chairman Halter stated that the minutes were not finalized and would be reviewed for approval at the next Labor Board meeting.

IV. PUBLIC COMMENTS *Limited to three (3) minutes total time per person.
There was a brief procedure discussion between the Board members regarding the ruling and decision on Stipulated Motion's to Vacate prior to a scheduled meeting. The Board members agreed that Chairman Baca should rule on the Motion's on behalf of the Board.

V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.
LB 17-03 Order on City's Motion to Dismissed was approved and signed by the Board members.

VI. PRESENTMENT OF ORDERS.
See item V.

VII. LB 12-02, REVIEW OF THE CITY'S BRIEF IN SUPPORT OF DISMISSAL AND THE UNION'S SUPPLEMENTAL BRIEF ON WAIVER AND MANAGEMENT RIGHTS.

Samantha Hults, Assistant City Attorney appeared on behalf of the City. James Montalbano, Attorney from Youtz and Valdez appeared on behalf of AFSCME. Ms. Hults presented the City's Brief in Support of Dismissal. Mr. Montalbano presented the Union's Supplemental Brief on Waiver and Management Rights.

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 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. Chairman Baca seconded. A roll call vote was taken and the Motion passed 3-0. The Board was in closed session to discuss LB 12-02 and no other cases were discussed.

Chairman Baca made a motion to deny the City's Motion to Dismiss and the Board finds that the Union did not waive their rights to bargain and the City did not have the authority or powers under management rights to implement without going through collective bargaining. Mr. Montoya seconded. Vote taken and passed 3-0.

VIII. LB 15-35, REVIEW AND DECISION OF THE CITY AND THE UNION'S CLOSING ARGUMENT.

Kelly Garcia, Assistant City Attorney appeared on behalf of the City. Michael Dorin appeared on behalf of AFSCME. Both parties presented their closing arguments and gave brief responses and argument.

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 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. The Board was in closed session to discuss LB 15-35 and no other cases were discussed.

Mr. Montoya made a motion to find that the exclusion from the seniority selection of overtime was disciplined and a predetermination hearing was required and not provided by the City and therefore the City committed a prohibited practice. Chairman Baca seconded. Mr. Wartell opposed. Motion passed 2-1.

Mr. Montoya also moved to find that there is no monetary award granted. Chairman Baca seconded. Vote taken and passed 3-0.

IX. MOTIONS HEARING:

- **CITY'S MOTION TO DISMISS PROHIBITED PRACTICE COMPLAINT'S FOR FAILURE TO COMPLY WITH APRIL 25, 2017 ORDER IN LB 09-13; LB 11-01; LB 11-02; LB 11-03; LB 11-04; LB 12-19; LB 15-10; LB 15-22; LB 17-04; LB 17-07; LB 17-09 AND UNION'S RESPONSE TO CITY'S MOTION TO DISMISS FOR FAILURE TO COMPLY WITH THE BOARD'S ORDER SCHEDULE ON APRIL 25, 2017.**
  Philemina Hausler, Assistant City Attorney appeared on behalf of the City. James Montalbano, appeared on behalf of AFSCME. Both parties stipulated to withdraw the following cases; LB 09-13, LB 11-03, LB 11-04, LB 12-19, LB 15-10, LB 17-04 and LB 17-09. Chairman Baca moved to dismiss the seven cases. Mr. Montoya seconded. Voted and passed 3-0. Ms. Hausler then presented the City's Motion to Dismiss and gave brief argument on LB 11-01, LB 11-02, LB 15-22 and LB 17-07. She stated that the Union did not file their Responses that were ordered by the Board and therefore these cases should be dismissed. Mr. Montalbano presented the Union's Response and he stated that the Union did not respond to the Motion's because they were not aware of the Motion's filed by the City until they did some research.

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

  Chairman Baca moved to deny the City's Motion to Dismiss and finds that the Board has the authority to manage the processing of cases that come before them and to ensure compliance with orders entered by the Board he imposed a $500.00 fine against the Union on the four cases which totals $2000.00, to be paid to the City within thirty days from this meeting date. The Union also has ten days to file a Response to the four cases. Mr. Wartell seconded. Vote taken and passed 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)**
  Stipulated Motion to Vacate approved. See item II.

X. MERITS HEARING:

- **LB 14-20, LB-14-20 STEP III GRIEVANCE ON BEHALF OF STACEY VALVERDE AGAINST THE CITY OF ALBUQURQUE, FAMILY AND COMMUNITY SERVICES DEPARTMENT FOR REJECTING THE PREDETERMINATION HEARING OFFICER'S RECOMMENDATION AND SUSPENDING HER FOR THREE BUSINESS DAYS WITHOUT JUST CAUSE. (ROCKY GUTIERREZ, AFSCME LOCAL 2962).**
  Stipulated Motion to Vacate approved. See item II.

XI. ADJOURNMENT.

Mr. Montoya made a motion to adjourn the meeting. Chairman Baca seconded. Motion passed 3-0 and the meeting was adjourned at 11:55 a.m.

APPROVED:

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

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