

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD MONDAY, APRIL 24, 2023

MEMBERS PRESENT:

Chairman Ted Baca
Juan Montoya
Bruce Perlman

OTHERS PRESENT:

Nichole Maher
Augustine Romero
Merissa Reddy
Ian Stoker
Jessica Serrano
Joel Villarreal
Anita Padilla
Bill Marquez
Mary Debbiee
Fred Mowrer
Erin Flynn
Diane Kimberle (zoom)
Victoria Gammill (zoom)
Lucian Vigil (zoom)

Carric Coah
Catherine Gonzalez
Adam Terran
James Montalbano
Louis Sisneros
Mark Finley
Rodney Valdez
Marlon Battaglia
Shelle Sanchez
William Bushard
Lisa Serna-Cordova

Minutes

I. CALL TO ORDER.

Chairman Baca called the meeting to order. Board members Bruce Perlman and Juan Montoya were also present.

II. REVIEW AND APPROVAL OF THE AGENDA FOR MONDAY, APRIL 24, 2023.

Mr. Montoya moved to approve the agenda for April 24, 2023. Mr. Perlman seconded. Voted and passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR APRIL 3, 2023.

Mr. Perlman moved to approve the minutes for April 24, 2023. Mr. Montoya seconded. Voted and passed 3-0.

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

- Mr. Montalbano asked the Board about getting things on future agendas.
- Mr. Mowrer asked the Board about getting things on future agendas and about new PPC's.
- Chairman Baca stated new PPC's needed to be screened for facial validity, per rule 311.
- Chairman Baca stated motions to substitute counsel should include an order.

V. PRESENTMENT AND APPROVAL OF ORDERS:

- **LB 21-24 JOINT MOTION TO DISMISS**
Signed and approved.
- **LB 21-47 ORDER OF DISMISSAL**
Signed and approved.
- **LB 21-50 ORDER OF DISMISSAL**
Signed and approved.
- **LB 19-16 STIPULATED ORDER**
Signed and approved.
- **LB 21-60 ORDER TO DISMISS WITH PREJUDICE**
Signed and approved.

VI. MISCELLANEOUS/STATUS CONFERENCE:

• **NEW PPC LB 23-06**

Attorney Fred Mowrer appeared on behalf of Local 244. City Assistant Attorney Catherine Gonzales appeared on behalf of the City. Ms. Gonzales feels the PPC is deficient for not naming any specific violation. Chairman Baca told Mr. Mowrer he had 21 days from today to file an amended PPC motion, worded more clearly on rules/ordinances violated by the City. The City does not need to respond to current PPC.

• **NEW PPC LB 23-07**

Attorney Fred Mowrer appeared on behalf of Albuquerque Police Officer Association. Assistant attorney Jessica Serrano appeared for the City. The City asked that IA #s be identified on new PPC motions. Mr. Mowrer said he would send an amended motion today. No other issues.

VII. MERITS HEARINGS:

- **LB 21-37 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF ENVIRONMENTAL HEALTH SPECIALIST 1 (M14's) AGAINST THE CITY OF ALBUQUERQUE ENVIRONMENTAL HEALTH DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT FOR REQUIRING THE SPECIALIST 1 TO TRAIN AND CERTIFY AUTOMOTIVE TECHNICIANS AND AIR CARE INSPECTORS.**

Augustine Romero appeared on behalf of AFSCME Local 3022, represented by Attorney James Montalbano. Assistant City Attorney Jessica Serrano and Attorney Ian Stoker appeared on behalf of the City.

The Board asked Mr. Montalbano where we had left off last hearing. He said they had just finished presenting to the Board and the City was about to start presenting their case.

Witness Lisa Serna-Cordova was called by City. Witness provided testimony on the job duties of the training program for M14's and M15's. The City showed Exhibit 13 and 14. The Board admitted Exhibit 13 and 14 in to evidence. City showed Exhibit 11. Board admitted Exhibit 11 in to evidence. City showed Exhibit 6 and 10. The Board admitted Exhibit 6 and 10 into evidence. The City showed Exhibit 12. The Board admitted Exhibit 12 into evidence. City rested.

Chairman Baca called a recess at approximately 10:58 a.m. until 11:10 a.m.

Back on record approximately 11:13 a.m.

Mr. Montalbano cross-examined witness Serna-Cordova. Showed witness City's exhibit 10 and asked questions.

Witness excused for the day at 11:38 a.m.

City calls witness Anita Padilla. Mr. Stoker questioned witness on her HR training, education and experience.

Chairman Baca calls for lunch break at 12:02 p.m., to return at 1:15 p.m.

Back on record at 1:25 p.m.

Mr. Stoker continued questioning witness Padilla. Moved to enter City's Exhibit 1. Board admitted Exhibit 1 in to evidence. Moved to enter City's Exhibit 2-10. Board admitted exhibits 2-10 into evidence. City rested.

Mr. Montalbano cross-examined witness Padilla and rested.

Mr. Stoker redirected witness Padilla.

Mr. Perlman asked witness Padilla questions about job classification and description.

Mr. Montoya questioned witness Padilla on job functions and management.

Mr. Stoker asked clarifying question of witness Padilla.

Witness Padilla excused.

Mr. Stoker asked if parties could submit closing statements in writing to move on to next hearing. Mr. Montalbano said he and the Union are prepared to make statements now but can do in writing if the Board prefers. Chairman Baca said it would be helpful to Board since the first part of the hearing was 3 weeks ago. He would like the closing arguments to clearly state each parties side and the facts of the case.

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. Session was closed approximately 2:23 p.m.

The Board returned to open session at approximately 2:30 p.m. The meeting had been in closed session pursuant to Section 10.15.1.H.3 of the Open Meetings Act. Chairman Baca stated that the Board was in closed session to discuss LB 21-37 and no other matters were discussed. Chairman Baca made a motion to continue hearing. Mr. Montoya seconded. Voted and passed 3-0. The Board would like short and concise closing arguments from the Union and City.

Mr. Montalbano gave an overview of last session's witness statements and summarized the Union's closing arguments. He says the duties of M14's have, changed and a desk audit does not include any backpay owed. Union rested.

Mr. Stoker provided closing arguments for the City. He said there is a lot of hair splitting and there are new requests being made by the Union, as far as making M14's into M15's. The Board would have to find they were working out of their classification, not job description. PPC should be denied and a desk audit should be completed. City rests.

Chairman Baca made a motion that the Board go into closed session to deliberate on evidence received, 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. Session was closed approximately 3:06 p.m.

The Board returned to open session at approximately 3:29 p.m. The meeting had been in closed session pursuant to Section 10.15.1.H.3 of the Open Meetings Act. Chairman Baca stated that the Board was in closed session to discuss LB 21-37 and no other matters were discussed. Mr. Montoya moved to direct City to conduct desk audit of positions. If the result is an increase in pay grade, it will be retroactive to time PPC was filed. Chairman Baca 2nd. Mr. Perlman clarified, if desk audit does not substantiate a reclassification, case will go back to Board for further proceedings. Mr. Baca stained request for cease and desist order. Mr. Perlman 2nd. 3-0 passed.

- **LB 21-59 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF MARY WEISE FOR VIOLATIONS OF LMRO 3-2-9 (A6), INCLUDING BUT NOT LIMITED TO CBA 24. INVESTIGATIONS AND DISCIPLINE.**

Augustine Romero appeared on behalf of AFSCME Local 3022, represented by attorney James Montalbano. Assistant City Attorneys, Jessica Serrano and Catherine Gonzales appeared on behalf of the City.

Mr. Montalbano said the City should present for this case first. The City says PPC complaints start with the appellant. Mr. Montalbano said this case is now a just-cause claim and the City is obligated to show burden of proof. Mr. Montalbano said the City has not provided the documents requested by the Union. This is another reason the City should present first. The City says if the Union wanted to grieve the demotion, they should have gone to Personnel Board but they came to the Labor Board, whose procedures state the party filing the PPC has the burden of proof.

The City says Ms. Weise was aware of the allegations against her and the Union told Ms. Weise not to provide information to the investigator because they felt deadlines had been missed and sufficient evidence had not been shown to warrant demotion.

Mr. Perlman said this appears to be a dispute about what information is appropriate to be provided by the City, who says the predetermination paperwork was provided and adequate.

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. Session was closed approximately 3:57 p.m.

The Board returned to open session at approximately 4:18 p.m. The meeting had been in closed session pursuant to Section 10.15.1.H.3 of the Open Meetings Act. Chairman Baca stated that the Board was in closed session to discuss LB 21-59 and no other matters were discussed. Chairman Baca made a motion to continue hearing. Mr. Montoya seconded. Voted and passed 3-0.

Mr. Montoya moved that the City of Albuquerque has the burden of proof. The Board is going to look into and amend existing rules to exclude just-cause and discipline matters to say the City has the burden of proof.

Mr. Montoya moved that in all just-cause cases, the City has the burden of proof. Mr. Perlman 2nd. Passed 3-0. The City will present first. Hearing to be continued at a later date. Prospectively June 15th and 16th, 2023.

VIII. ADJOURNMENT.

Chairman Baca adjourned the meeting at 4:55 p.m.



TED BACA, CHAIR
City Labor-Management Relations Board

6/5/2023
DATE

cc: Tim Keller, Mayor

Ethan Watson, City Clerk