



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, APRIL 3<sup>RD</sup>, 2023*

MEMBERS PRESENT:

*Chairman Ted Baca  
Juan Montoya  
Bruce Perlman*

OTHERS PRESENT:

*Nichole Maher      Sam Chavez  
Augustine Romero      Catherine Gonzalez  
Merissa Reddy      Adam Terran  
Ian Stoker      James Montalbano  
Jessica Serrano      Louis Sisneros  
Joel Villarreal      Victoria Gammill  
Anita Padilla      E. Justin Pennington  
Lucian Vigil      Rodney Valdez  
Bill Marquez      M G Barreras  
Casey Padilla      Brandon Gibson  
Mary Debbiee      Shelle Sanchez  
Yvonne Grimes(zoom)      Fred Mowrer (zoom)  
Diane Kimberle (zoom)      William Bushard (phone)*

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Albuquerque

NM 87103

www.cabq.gov

### 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 3<sup>RD</sup>, 2023.**

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

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR FEBRUARY 27<sup>TH</sup>, 2023.**

Mr. Perlman moved to approve the minutes for February 27<sup>TH</sup>, 2023. Mr. Montoya seconded. Voted and passed 3-0.

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

None.

**V. STATUS CONFERENCE/SCHEDULING ORDER:**

- **LB 21-54 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 1888 ON BEHALF OF MARLON BATTAGLIA AND MARK FINLEY AGAINST THE CITY OF ALBUQUERQUE MUNICIPAL DEVELOPMENT DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT 24.1 INVESTIGATIONS, SUB-SECTIONS 24.1.3, 24.1.3.1 AND 24.3.2.**

Sam Chavez appeared on behalf of Local 1888. Assistant City Attorney Catherine Gonzalez and Attorney Ian Stoker appeared on behalf of the City. This matter is to be scheduled for Labor Board on 4/17/23 under Screening/Investigation and Entry of Scheduling Order. 1706-2006

- **LB 22-08 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 1888 ON BEHALF OF MARLON BATTAGLIA AND MARK FINLEY AGAINST THE CITY OF ALBUQUERQUE MUNICIPAL DEVELOPMENT DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT 24.1 INVESTIGATIONS, SUB-SECTIONS 24.1.3, 24.1.3.1 AND 24.3.2.**  
Sam Chavez appeared on behalf of Local 1888, represented by Attorney James Montalbano. Assistant City Attorney Catherine Gonzalez and Attorney Ian Stoker appeared on behalf of the City. This matter is to be scheduled for Labor Board on 4/17/23 under Screening/Investigation and Entry of Scheduling Order for the Union to prove the City cannot ask to do investigations without discipline.
- **LB 21-74 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 AND AUGUSTINE ROMERO AGAINST THE CITY OF ALBUQUERQUE ARTS & CULTURE DEPARTMENT FOR VIOLATIONS OF LMRO 3-2-9 (A5) (A6), INCLUDING BUT NOT LIMITED TO CBA 0.1 PREAMBLE, 0.4.1 RECOGNITION, 23.1.1 CONDITIONS OF EMPLOYMENT, 39.1 NON-DISCRIMINATION.**  
Attorney James Montalbano appeared on behalf of Local 3022. Assistant City Attorney Catherine Gonzalez and Attorney Ian Stoker appeared on behalf of the City. This matter is to be scheduled for Labor Board on 4/17/23 under Screening/Investigation and Entry of Scheduling Order. The City is to send a form/template to Mr. Montalbano. Chairman Baca said if there are any issues, to resolve them before the next hearing.

#### **VI. STATUS/SCHEDULE HEARING:**

- **23-03 AFSCME LOCALS 624 AND PURSUANT TO ARTICLE 2 OF THE LMRO SECTION 3-2-9 PROHIBITED PRACTICES, BY AND THROUGH EXECUTIVE BOARD MEMBER, LOUIS MONTOYA, FILES THIS PPC ON BEHALF OF MR. ARTHUR BLEA.**  
Louis Sisneros and Joel Villareal appeared on behalf of AFSCME Local 624. Assistant City Attorney Catherine Gonzalez appeared on behalf of the City. This matter is to be scheduled for Labor Board on 4/17/23 under Screening/Investigation and Entry of Scheduling Order so it may be reviewed for validity by The Board and scheduled for trial if it passes.

#### **VII. RULE 3.11 SCREENING/INVESTIGATION AND ENTRY OF SCHEDULING ORDER:**

- **23-04 PPC STEP 3, DIANE ARCHIBEQUE, LMRO, 3-2-9 (A6), INCLUDING BUT NOT LIMITED TO CBA, 5 VACATION, 17.1.2.2, OCCUPATIONAL HEALTH AND SAFETY, 23 CONDITIONS OF EMPLOYMENT.**  
Augustine Romero appeared on behalf of AFSCME Local 3022, represented by Attorney James Montalbano. Assistant City Attorney Jessica Serrano appeared on behalf of the City. The City and AFSCME came to an agreement and this matter will be dismissed. The dismissal was signed off by The Board.
- **23-05 PPC AFSCME COUNCIL 18, LOCALS 624 (TRANSIT & BLUE COLLAR), 1888, 2499, AND 3022 BY AND THROUGH YOUTZ & VALDEZ AGAINST THE CITY OF ALBUQUERQUE FOR VIOLATIONS OF THE LMRO AND THE COLLECTIVE BARGAINING AGREEMENT.**  
Attorney James Montalbano appeared on behalf AFSCME Council 18. Attorney Ian Stoker appeared on behalf of the City. The City is to send a form/template to Mr. Montalbano. This matter is to be scheduled for Labor Board on 4/17/23 under Screening/Investigation and Entry of Scheduling Order.

## VIII. MOTION HEARINGS:

- **LB 21-47 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.**

Attorney James Montalbano appeared on behalf AFSCME Local 3022. Assistant City Attorney Catherine Gonzalez and Jessica Serrano appeared on behalf of the City.

Mr. Montalbano raised the issue of timeliness and said prejudice was shown against the Union. He asked that a motion to dismiss based on timeliness be granted by the Board. Ms. Gonzalez stated the City met the timelines and does not believe prejudice was shown. Asked Board to deny motion to dismiss.

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. Perlman seconded. A roll call vote was taken and the motion passed 3-0. Session was closed approximately 10:18 AM.

The Board returned to open session at approximately 10:33 AM. 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 21-47 and no other matters were discussed. Chairman Baca made a motion to deny the Motion to Dismiss. Mr. Montoya seconded. Voted and passed unanimously 3-0. City to provide order of dismissal.

Ms. Serrano and Ms. Gonzalez provided the board with a brief backlog of the case and asked that the Summary Judgement Motion for LB 21-47 be granted and for the case to be dismissed with prejudice. Mr. Montalbano said the investigation was not complete and the City is falsely claiming it was.

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. Perlman seconded. A roll call vote was taken and the motion passed 3-0. Session was closed approximately 11:08 AM.

The Board returned to open session at approximately 11:14 AM. 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 21-47 and no other matters were discussed. Chairman Baca made a motion to grant Summary Judgement Motion. Mr. Perlman seconded. Voted and passed unanimously 3-0. City to submit Order of Judgement.

- **LB 21-50 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.**

Attorney James Montalbano appeared on behalf AFSCME Local 3022. Assistant City Attorney Catherine Gonzalez and Jessica Serrano appeared on behalf of the City.

Ms. Serrano gave the Board a brief backlog of case and asked that Motion for Summary Judgement be granted. Mr. Montalbano argued that the City ignored the request for documentation.

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 11:42 AM.

The Board returned to open session at approximately 11:14 AM. 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 21-50 and no other matters were discussed. Mr. Perlman made a motion to grant Motion for Summary Judgement. Chairman Baca seconded. Mr. Montoya abstained. Voted and passed 2-1.

#### **IX. MERITS HEARINGS:**

- **LB 21-50 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.**  
Vacated. To be heard on 4/24/23 and 4/25/23.
- **LB 21-47 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.**  
Vacated. To be heard on 4/24/23 and 4/25/23.
- **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.**  
Vacated. To be heard on 4/24/23 and 4/25/23.
- **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.

Mr. Montalbano gave opening statement with brief overview of issue at hand.

Ms. Serrano gave opening statement and brief overview of City's position on issue. The City asks the Board to find it did not violate the agreement and that the cease and desist order be dismissed. Witnesses William Bushard, Lucian Wallace Vigil and Rodney Valdez were called by AFSCME. The City cross-examined witnesses. Parties rested.

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. Perlman seconded. A roll call vote was taken and the motion passed 3-0. Session was closed approximately 4:41 PM.

The Board returned to open session at approximately 4:50 PM. 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. Mr. Perlman abstained. Voted and passed 2-1. To be continued on April 17, 2023 Labor Board as first order of business.

**X. PRESENTMENT AND APPROVAL OF ORDERS:**

- **LB 19-26 JOINT MOTION TO DISMISS**  
Approved and signed.
- **LB 21-17 STIPULATED ORDER**  
Approved and signed.
- **LB 21-68 AMENDED STIPULATED ORDER**  
Approved and signed.
- **LB 21-73 ORDER FOR DISMISSAL**  
Approved and signed.
- **LB 21-61 ORDER FOR DISMISSAL**  
Approved and signed.

**XI. ADJOURNMENT.**

Chairman Baca adjourned the meeting at 4:55 PM.

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

  
\_\_\_\_\_  
**DATE**

cc: Tim Keller, Mayor      Ethan Watson, City Clerk