

LABOR-MANAGEMENT RELATIONS BOARD
Wednesday, August 7, 2019
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Chairman Ted Baca
Juan Montoya
Ryan Harrigan

OTHERS PRESENT:

<i>Leigh Brunner</i>	<i>Rocky Gutierrez</i>
<i>Ian Stoker</i>	<i>Stephen Curtice</i>
<i>Melissa Kountz</i>	<i>Fred Mowrer</i>
<i>Devon Moody</i>	<i>Casey Padilla</i>
<i>Jessica Enriquez</i>	<i>Patricia French</i>

Minutes

I. CALL TO ORDER.

Chairman Ted Baca called the meeting to order at 9:05 a.m. Board members Juan Montoya and Ryan Harrigan were also present.

II. REVIEW AND APPROVAL OF THE AMENDED AGENDA FOR WEDNESDAY, AUGUST 7, 2019.

Mr. Montoya moved to approve the amended agenda and exclude item X, merits hearing for LB 19-02 because the parties have submitted a Stipulated Motion to Continue Merits Hearing. Mr. Harrigan seconded. Voted and passed 3-0.

III. REVIEW AND APPROVAL OF THE LABOR BOARD MINUTES FOR JULY 8, 2019.

Mr. Harrigan moved to approve the minutes for July 8, 2019. Mr. Montoya seconded. Voted and passed 3-0.

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

Melissa Kountz, Assistant City Attorney asked the Board to add to the agenda for August 9, 2019 a Motion to Stay in LB 19-19.

Rocky Gutierrez appeared on behalf of AFSCME and stated that LB 11-39 on the agenda for August 21, 2019 for merits hearing has been settled and the parties will submit a Motion to Dismiss.

Chairman Baca stated that a new prohibited practice complaint was filed, LB 19-28 filed by Case Padilla, AFSCME Representative and Mr. Padilla sent the Hearing Monitor, Jessica Enriquez an email stating he wishes to withdraw the case. The email also shows a correspondence from Diane Kimberle from Human Resources Department, allowing Mr. Padilla to withdraw the complaint and allowing an extension of thirty days.

Ian Stoker, Assistant City Attorney appeared on behalf of the City and stated that the Union has been in discussion with the City's Employee Relations Group and the parties have discussed a resolution and part of that resolution is withdrawing the PPC. Mr. Padilla was present and stated that after filing the complaint the City and Union came to a resolution and if there is not a resolution in thirty days then the Union will proceed with a complaint.

Mr. Baca stated that he did not think Ms. Kimberle could bind the contract by allowing an extension. After discussion Mr. Padilla agreed to go forward with the complaint until the parties reach a final resolution.

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

- **LB 15-30, ORDER ON PETITIONER'S STIPULATED MOTION FOR DISMISSAL.** Approved and signed by the Board.
- **LB 15-31, ORDER OF DISMISSAL.** Approved and signed by the Board.
- **LB 15-34, ORDER OF DISMISSAL.** Approved and signed by the Board.
- **LB 16-11, ORDER OF DISMISSAL.** Approved and signed by the Board.
- **LB 16-28, ORDER OF DISMISSAL.** Approved and signed by the Board.
- **LB 17-06, ORDER OF DISMISSAL.** Approved and signed by the Board.
- **LB 18-13, ORDER ON PETITIONER'S STIPULATED MOTION FOR DISMISSAL.** Approved and signed by the Board.
- **LB 18-16, ORDER ON PETITIONER'S STIPULATED MOTION FOR DISMISSAL.** Approved and signed by the Board.
- **LB 19-01 & LB 19-04, ORDER OF DISMISSAL.** Approved and signed by the Board.
- **LB 19-07, ORDER OF DISMISSAL.** Approved and signed by the Board.

VI. PRESENTMENT OF ORDERS.

- **LB 13-23 SCHEDULING ORDER.**
Approved and signed by the Board and this matter is scheduled for merits hearing on February 3, 2020.
- **LB 16-25, ORDER DENYING CITY'S MOTION FOR SUMMARY JUDGMENT.** Approved and signed by the Board.
- **LB 16-27, ORDER DENYING CITY'S MOTION FOR SUMMARY JUDGMENT.** Approved and signed by the Board.
- **LB 19-03, ORDER EXTENDING DUE DATE FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW.** Approved and signed by the Board.
- **LB 19-02, ORDER GRANTING JOINT MOTION TO VACATE AND CONTINUE MERITS HEARING.** Approved and signed by the Board and this matter is rescheduled for September 6, 2019.

VII. DISCUSSION OF PROPOSED JOINT MOTION TO DISMISS LABOR BOARD AS A PARTY TO THE APPEAL IN D-202-CV-2019-05256 (LB 16-30).

Leigh Brunner, Assistant City Attorney and council for the Board stated that after discussion with the City and the Union, they agreed to submit a Joint Motion to Dismiss the Labor Management Relations Board as a Party to the Appeal. Chairman Baca moved to approve the Joint Motion to Dismiss the LMRB as a Party. Mr. Montoya seconded. Voted and passed 3-0.

VIII. STATUS CONFERENCE:

- **LB 16-20, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF LEANN HARRISON AND JULIA MOYA AGAINST THE CITY OF ALBUQUERQUE FAMILY AND COMMUNITY SERVICES FOR VIOLATING LMRO 3-2-9A6 AND CBA 13.1 WORKING OUTSIDE CLASSIFICATION. (PATRICIA FRENCH, AFSCME 3022)**
Mr. Stoker appeared on behalf of the City and stated that the parties are in discussion for a possible settlement but does not oppose scheduling for merits heading. After a brief discussion the Board scheduled this matter for merits hearing on September 23, 2019.

- **LB 19-07, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF CARLOS MONTOYA AGAINST THE CITY OF ALBUQUERQUE FIRE RESCUE DEPARTMENT FOR VIOLATING THE CBA BY UNILATERALLY CHANGING THE METHOD OF PROMOTING AFR EMPLOYEES TO DEPUTY CHIEF. (ATTORNEY THOMAS GROVER)**
Parties submitted a Stipulated Order to Dismiss. See item

IX. MOTIONS HEARING:

- **LB 19-08, JOINT STATEMENT OF ISSUES, STIPULATED FACTS AND DISPUTED FACTS. (MICHAEL DORIN, AFSCME 2962)**
Nick Nunez, Assistant City Attorney appeared on behalf of the City and stated that the City has submitted a Motion to Dismiss, Motion for Summary Judgment and a Motion to Strike Petitioner's Responses because the Responses were filed outside the date as stated in the Scheduling Order. Michael Dorin appeared on behalf of the Union and stated that he opposes the Motion to Strike because he received it a day before the meeting and did not have time to respond.

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

Mr. Harrigan 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 the Motion to Strike Petitioner's Responses in LB 19-08 and no other matters were discussed.

Chairman Baca made a motion to deny the City's Motion to Strike Petitioner's Responses but sanction the Union to pay five hundred dollars.

Mr. Nunez presented the City's Motion to Dismiss and Motion for Summary Judgment. Mr. Dorin presented the Union's Response.

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

Mr. Harrigan 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 City's Motion to Dismiss and Motion for Summary Judgment and Responses in LB 19-08 and no other matters were discussed.

Chairman Baca moved to grant the City's Motion to Dismiss because the practice of leaving early violates the anti-donation clause and the City was not required to negotiate the issue of implementing time clause. Mr. Montoya seconded. Voted and passed 3-0.

X. MERITS HEARING:

- **LB 19-02, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF MARY ANN CASTILLO AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT FOR DEMOTING HER WITHOUT JUST CAUSE. (JAMES MONTALBANO, YOUTZ & VALDEZ)**

Rescheduled to September 6, 2019. See item

XI. ADJOURNMENT.

Chairman Baca made a motion to adjourn. Mr. Montoya seconded. Voted and passed 3-0.

APPROVED:

TED BACA, CHAIR
City Labor Management Relations Board

DATE

cc: Tim Keller, Mayor Katy Duhigg, City Clerk