

CITY OF ALBUQUERQUE



CITY OF ALBUQUERQUE PERSONNEL BOARD VIRTUAL ZOOM MEETING

BOARD MEMBERS

JOHN CASTILLO- CHAIR
THOMAS ZANE REEVES- VICE CHAIR
MAGDALENA VIGIL-TULLAR
KATHERINE KORTE
BERNARD TOON

WEDNESDAY, JULY 13, 2022
2:30 P.M.

MEMBERS PRESENT:

John Castillo- Chair
Thomas Z. Reeves- Vice Chair
Magdalena Vigil-Tullar
Bernie Toon
Katherine Korte

OTHERS PRESENT:

Ian Stoker
John D'Amato
Diane Kimberle
Carrie Cook
Terri Hopp
Catherine Gonzalez
Justin Pennington
Victor Lovato
Yvonne Grimes
Bryon Rowland

Minutes

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

- I. CALL TO ORDER.**
Chair John Castillo called the meeting to order at 2:33 pm. Board members Vice Chair Zane Reeves, Bernie Toon, Magdalena Vigil-Tullar and Katherine Korte were also present.
- II. REVIEW AND APPROVAL OF THE PERSONNEL BOARD AMENDED AGENDA FOR WEDNESDAY JULY 13, 2022.**
Chair Castillo stated that member Vigil-Tullar name be corrected on the agenda. Vice Chair Reeves moved to approve the agenda. Member Korte seconded. Voted and passed 5-0.
- III. REVIEW AND APPROVAL OF PERSONNEL BOARD MINUTES FOR MAY 11, 2022.**
Member Korte moved to approve the minutes for May 11, 2022. Vice Chair Reeves seconded. Voted and passed 5-0.
- IV. PUBLIC COMMENTS**
There were no public comments.
- V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS:**
 - **PB 21-06, ALCIA BACA, STIPULATED ORDER DISMISSAL.** Attorney John D'Amato appeared for Fred Mower and on behalf of Alycia Baca. Assistant City Attorney Justin Pennington appeared on behalf of the City and stated that they reached an agreement months ago but neglected to send over a dismissal. A settlement agreement has already been signed. Would like the Board to dismiss. See item VIII
 - **PB 21-14, AARON JONES, ORDER OF DISMISSAL.** Attorney John D'Amato appeared on behalf of Aaron Jones. Assistant City Attorney Justin Pennington appeared on behalf of the City and stated that they reached an agreement and that the settlement agreement has been signed. Would like the Board to dismiss. See item VIII
 - **PB 21-20, PHETAMPHONE PHOLPHIBOUN, STIPULATED ORDER FOR DECISION.** Attorney John D'Amato appeared on behalf of Phetamphone Pholphiboun. Assistant City Attorney

Justin Pennington appeared on behalf of the City and stated that the City and APOA were involved in some litigation related to whether or not the police department was issuing discipline in accordance with time deadlines within the collective bargaining agreement. Labor Board entered an order finding that the City violated the collective bargaining agreement, resulting in a review of several dozen cases. In Mr. Pholphiboun's case, it was determined that the City was not in compliance with the agreement and disciplinary action be withdrawn and the Union would also dismiss the disciplinary action. What the board has in front of them is the order that implements that agreement, which the City has agreed to withdraw. Attorneys asked the board to dismiss the appeal. Vice Chair Reeves replied that he didn't know why the Personnel Board is hearing these cases. Mr. D'Amato stated that the Labor Board is taking care of the jurisdictional province and now is asking the Board to exercise its discretion and its jurisdiction and that the release in the order contemplates reimbursement of lost hours. See item VIII

- **PB 21-28, STEVEN ARIAS, STIPULATED ORDER FOR DECISION.** Attorney John D'Amato appeared on behalf Steven Arias and stated that this matter is the same scenario as the previous cases. Assistant City Attorney Catherine Gonzalez appeared on behalf of the City and stated that this is also a timeline case; this order is to dismiss the PB and get reimbursed for the untimely discipline that was imposed. See item VIII
- **PB 21-33, NATHAN CADROY, ORDER OF DISMISSAL** Attorney John D'Amato appeared on behalf of Nathan Cadroy. Stated that Mr. Cadroy's appeal to the Board was not for suspension but for allegedly wrongful removal without cause from his position held as part of his discipline. Mr. Cadroy is no longer employed with the City of Albuquerque. Assistant City Attorney Ian Stoker replied that the City doesn't oppose dismissing this case. See item VIII
- **PB 22-09, JOHNNY GARCIA, ORDER OF DISMISSAL.** Attorney John D'Amato appeared on behalf of Johnny Garcia to ask that this appeal be dismissed as Mr. Garcia is no longer employed with the Albuquerque Police Department. Assistant City Attorney Ian Stoker appeared on behalf of the City and also stated that the city does not oppose dismissing. See item VIII
- **PB 21-35, RANDY SERRANO, STIPULATED ORDER FOR DECISION.** Attorney John D'Amato appeared on behalf of Randy Serrano and stated that this is again a timeline case. Assistant City Attorney Catherine Gonzalez also stated that this is like the other case cited previously regarding untimely discipline, which would require reimbursement. See item VIII

VI. PB 21-21 JARED JARAMILLO, HEARING OFFICER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW UPHOLDING A TWENTY DAY SUSPENSION.

Assistant City Attorney Catherine Gonzalez appeared on behalf of the City and asked that the Board adopt the recommendations. Ms. Gonzales reported there was a two-day hearing on this matter and the city believes that the Hearing Officer's recommendations are consistent with the city's suspension. Ms. Gonzales asked the Board to uphold the recommendations and suspension. See item VIII

VII. PB 22-01 LUIS RUIZ, HEARING OFFICER'S RECOMMENDATION THAT THE FULL BOARD ENTER AN ORDER DISMISSING ON LACK OF JURISDICTION

Attorney John D'Amato appeared on behalf of Luis Ruiz, and said this is a case involving no jurisdiction. Assistant City Attorney Pennington stated he agreed there is no jurisdiction. See item VIII

VIII. VOTE TO CLOSE THE MEETING PURSUANT TO SECTION 10-15-1(H) (2) (LIMITED PERSONNEL MATTERS) AND 10-15-1(H) (7) (THREATENED OR PENDING LITIGATION) OF THE NM OPEN MEETINGS ACT.

Vice Chair Reeves moved for the Board to enter 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. Ms. Vigil-Tullar seconded. A roll call vote was taken and passed 5-0.

Chair Castillo moved to return to open session and stated that the Board was in closed session to discuss only the items on the agenda and no other matters were discussed.

Member Vigil-Tullar made a motion to accept the Stipulated Order Dismissal for PB 21-06, Alycia Baca. Member Korte seconded. Voted and passed 5-0.

Member Vigil-Tullar made a motion to approve the Order of Dismissal for PB 21-14, Aaron Jones. Member Korte seconded. Voted and passed 5-0.

Member Korte made a motion to approve the Stipulated Order for Decision for PB 21-20, Phetamphone Pholphiboun. Member Vigil-Tullar seconded. Voted and passed 5-0.

Member Korte made a motion to accept the Stipulated Order for Decision for PB 21-28, Steven Arias. Member Vigil-Tullar seconded. Voted and passed 5-0.

Vice Chair Reeves made a motion to accept the Order of Dismissal for PB 21-33, Nathan Cadroy. Member Korte seconded. Voted and passed 5-0.

Vice Chair Reeves made a motion to accept the Order of Dismissal for PB 22-09, Johnny Garcia. Member Korte seconded. Voted and passed 5-0.

Vice Chair Reeves made a motion to accept the Stipulated Order for Decision for PB 21-35, Randy Serrano. Member Korte seconded. Voted and passed 5-0.

Member Korte made a motion to Uphold the Twenty-Day Suspension. Vice Chair Reeves seconded. Voted and passed 5-0.

Member Vigil-Tullar made a motion to accept the Hearing Officers Recommendation for Lack of Jurisdiction. Voted and passed 5-0.

IX. OTHER MATTERS.

Chair Castillo had two matters to discuss. Asked Board members if they would like to meet in person or continue zoom for PB meetings. Vice Chair Reeves and Member Vigil-Tullar would like to continue zoom. Chair Castillo also mentioned his term for Chair is up and asked the members if they would like to nominate someone for Chair. Vice Chair Reeves nominated Chair Castillo to remain in position. Voted and passed 5-0.

X. ADJOURNMENT.

Chair Castillo adjourned the meeting.

JOHN CASTILLO- CHAIR
City Personnel Board

DATE

cc: *Timothy M. Keller, Mayor*
Ethan Watson, City Clerk