

# CITY OF ALBUQUERQUE



## LABOR-MANAGEMENT RELATIONS BOARD MONDAY, JULY 17, 2023

### MEMBERS PRESENT:

Chairman Ted Baca  
Juan Montoya  
Bruce Perlman

### OTHERS PRESENT:

Nichole Maher	Catherine Gonzalez
James Montalbano	Jessica Serrano
Mary Weise	Shelle Sanchez
Sophie Rane	Earl Garcia
Leigh Brunner	Augustine Romero
Carrie Cook	MG Barrera
Ian Stoker	Victoria Gammill
Merissa Reddy	Michael Dorin
Fred Mowrer (zoom)	Yvonne Grimes (zoom)
John D'Amato (zoom)	Patricia French (zoom)
Diane Kimberle (zoom)	

## MINUTES

### I. CALL TO ORDER.

Chairman Baca called the meeting to order at 9:11 a.m.

### II. REVIEW AND APPROVAL OF THE AGENDA FOR MONDAY, JULY 17, 2023.

Moved to approve by Mr. Perlman, Mr. Baca seconded. Voted and passed 3-0.

### III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR JUNE 12, 2023.

Moved to approve by Mr. Perlman, Mr. Baca seconded. No changes suggested. Voted and passed 3-0.

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

None at this time.

### V. PRESENTMENT AND APPROVAL OF ORDERS:

- **LB 20-29 STIPULATED ORDER TO DISMISS**  
Approved and signed.
- **LB 21-36 STIPULATED ORDER TO DISMISS WITH PREJUDICE**  
Approved and signed.
- **LB 21-37 INTERLOCUTORY ORDER**  
Approved and signed.
- **LB 21-54 & LB 22-08 ORDER ON FACIAL VALIDITY**  
Approved and signed. Chairman Baca said to put under entry of scheduling order on the 8/7/23 agenda.
- **LB 22-01 STIPULATED ORDER TO DISMISS WITH PREJUDICE**  
Approved and signed. Chairman Baca noted this is a timeline case.
- **LB 23-03 ORDER ON FACIAL VALIDITY**  
Approved and signed. Chairman Baca said to put under entry of scheduling order on the 8/7/23 agenda.
- **LB 23-08 ORDER ON FACIAL VALIDITY**  
Approved and signed. Chairman Baca said to put under entry of scheduling order on the 8/7/23 agenda.

**VI. MISCELLANEOUS/STATUS CONFERENCE:**

- **LB 23-05 SCHEDULING ORDER AND STATUS OF PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME COUNCIL 18, LOCALS 624, 1888, 2499, AND 3022 BY AND THROUGH YOUTZ & VALDEZ AGAINST THE CITY OF ALBUQUERQUE FOR VIOLATIONS OF THE LMRO AND COLLECTIVE BARGAINING AGREEMENT.**

Attorney Montalbano appeared on behalf of AFSCME. Attorney Ian Stoker appeared on behalf of the City.

Attorney Montalbano and Attorney Stoker said the parties will work this out together and submit a scheduling order at the next Labor Board meeting. The Board approved a template at the June meeting. Chairman Baca said to put under entry of scheduling order on the 8/7/23 agenda.

- **LB 23-09 SCREEN FOR FACIAL VALIDITY NEW PROHIBITED PRACTICE COMPLAINT FILED BY APOA AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT, FOR FAILING TO ADHERE TO THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT BY IMPOSING DISCIPLINE FOR MATTERS ARISING BEYOND THE TIME LIMITS SET BY POLICY AND THE CBA.**

Attorney Fred Mowrer appeared on behalf of APOA. Assistant Attorney Victoria Gammill and Carrie Cook appeared on behalf of the City.

The City states the claim does not name individuals involved or specify issues noted, or list any specific dates on the PPC.

Chairman Baca moved to determine that, in its present form, the complaint is not facially valid and he will extend a time of 30 days from today for an amended complaint to be filed. Attorney D'Amato said he would need 10 days to file an amended complaint or dismissal. Chairman Baca granted 10 business days to file with OAH. The amended PPC will be due on 7/27/23. The Board decided to add this to the agenda for 8/7/23. Voted and passed 3-0.

- **LB 20-09 STATUS OF RESOLUTION FOR PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624 ON BEHALF OF EARL GARCIA AGAINST THE CITY OF ALBUQUERQUE DEPARTMENT OF MUNICIPAL DEVELOPMENT FOR VIOLATIONS OF THE LMRO 3-2-9 (A6) AND CBA 0.1.1 AND 24.1.5 JUST CAUSE TO DETERMINE REINSTATEMENT RIGHTS AND BACKPAY.**

Attorney James Montalbano appeared for AFSCME Local 624. Attorney Ian Stoker and Assistant Attorney Jessica Serrano appeared for the City.

Attorney Montalbano stated the parties are negotiating and Mr. Garcia is back to work. They are now figuring out backpay and offers are being exchanged. They would like to place this on the agenda for 8/7/23 to have the Board decide if things have not been resolved by then. The Board agreed and asked to have it placed on the 8/7/23 agenda.

- **LB 21-37 STATUS OF DESK AUDIT AND RESOLUTION OF 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.**

Attorney Ian Stoker and Assistant Attorney Jessica Serrano appeared for the City. Attorney Montalbano appeared for AFSCME. The City states they provided Attorney Montalbano with some of the reports last week and they are giving them time to review and make decisions. The audit did determine individuals were not working outside the scope of their job and this will need to be brought back to the Board. Attorney Montalbano asked that the parties speak about the reports, and then bring them back to the Board. Chairman Baca asked them to set for presentment of positions and status of audit on 8/7/23. Attorney Stoker said they should be able to know if they will come to an agreement or need to take this further by then. Chairman Baca decided to set this for a status hearing on 8/7/23 instead.

- **STATUS OF NEW MEXICO PUBLIC EMPLOYEE BARGAINING ACT (PEBA) LETTERS FROM UNIONS.**

Chairman Baca asked Attorney Brunner for the status of letters. She said she sent the letters out to the Unions. Mr. Perlman said we should have them by November 1, 2023. Chairman Baca said to place on the 8/7/23 agenda for the status. He also asked for a note to be made on the agenda that the last day to submit letters is 11/1/23.

At 9:57 am Chairman Baca called for a recess until 10:15 a.m.

Back on record at 10:16 a.m.

## VII. MERITS HEARING:

- **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. IF THIS MERITS HEARING IS NOT CONCLUDED ON JULY 17, IT WILL CONTINUE ON JULY 18.**

Assistant Attorney Catherine Gonzales, Assistant Attorney Jessica Serrano and City representative Sophie Rane appeared on behalf of the City. Augustine Romero, Mary Weise and Attorney James Montalbano appeared on behalf of AFSCME.

Preliminary matters were discussed:

Attorney Gonzales said alleged violation of 21.4.3 regarding failure to provide evidence before the hearing had previously been ruled on and it was found the City did not violate the issue. Attorney Montalbano mentioned the Board already made decisions on other complaints and they will still have the ability to address similar issues. Chairman Baca asked if Attorney Montalbano saw the exhibit list and had issues with anything on there. Attorney Montalbano said he may and does not waive his right to object later on. Attorney Gonzales said the second alleged violation for timeline will not be litigated and Attorney Montalbano agreed. She also said the other alleged violation is mute and does not need to be litigated.

Opening arguments:

Attorney Serrano made her opening statements.

Attorney Montalbano requested his opening statement be reserved. Chairman Baca allowed.

City called its first witness, Dr. Stephanie Stowell:

Attorney Serrano discussed Dr. Stowell's credentials and experience. Attorney Serrano discussed with Dr. Stowell the incident that brought them here today and the alleged violations Ms. Weise committed.

Exhibit A was reviewed. Attorney Serrano moved to admit into evidence.

Attorney Montalbano objected to the admission of Exhibit A on the basis that the entire statement is hearsay. Attorney Serrano said hearsay is admissible and the document was used to notify the City of issues that started the investigation. Objection overruled by Chairman Baca. Exhibit A is admitted into evidence.

Chairman Baca asked Attorney Montalbano if there were any exhibits they would like to stipulate to for efficiency. Attorney Montalbano said he did not stipulate to H, I through N and O through R. He could stipulate to S, T, and U through W. Chairman Baca admitted City's exhibits E through G, I through N, S, and U through W.

Attorney Serrano continued questioning Dr. Stowell about what was done in this case and she provided an overview of her process. AZA accreditation was discussed and how Ms. Weise's actions potentially threatened their accreditation, which could have resulted in the loss of primates at the zoo. Supervisor responsibilities were discussed and her relation to Supervisors. Exhibits admitted into evidence were reviewed. Staff communication at zoo was discussed.

Attorney Montalbano objected to hearsay evidence. Attorney Serrano said generally hearsay is allowed and Dr. Stowell is testifying why she decided to hire an investigator in this case. Chairman Baca said it will be admitted.

Attorney Serrano continued questioning Dr. Stowell about what led to the need for an investigation. Dr. Stowell discussed the dynamic between 3 female gorillas and how Ms. Weise allegedly used the hose to make one of the gorillas shift. Dr. Stowell also discussed the matter of withholding food in an attempt to make gorillas shift and discussed how important it is to document things in regards to animal care and staff communication. The alleged lack of logs in the zoo's system were also discussed.

The City moved to admit Exhibit Q into evidence. AFSCME had no objection. Chairman admitted.

Attorney Serrano discussed whose responsibility it was to update the documentation database with Ms. Stowell.

Exhibit R was discussed in relation to water hose use. The City moved to admit. No objection by AFSCME. Chairman Baca admitted. Exhibit U was admitted previously. Attorney Serrano questioned Dr. Stowell on the email in exhibit U.

Cross examination by Attorney Montalbano:

Attorney Montalbano discussed how long Dr. Stowell had been with the BioPark. Attorney Montalbano asked if a gorilla was sprayed with the hose. Ms. Stowell said she did not know. Attorney Montalbano asked that the City leave the witness' Exhibit

notebook in front of the witness so no notes were exchanged. Chairman Baca agreed. The email in Exhibit U was further discussed, along with timelines. Attorney Montalbano pointed to Exhibit V. Attorney Serrano objected for lack of foundation. Exhibit U, page 6 also outlines protocols. Attorney Montalbano asked Dr. Stowell to look at pages 6 and 7 of Exhibit U. They discussed the use of the hose to shift primates. Attorney Montalbano discussed Exhibit T with Dr. Stowell and went back to Exhibit R to outline use of hose.

Objection by Attorney Serrano to question by Attorney Montalbano about message from staff member. Overruled by Chairman Baca.

Attorney Montalbano asked Dr. Stowell about a statement in Exhibit O.

Attorney Serrano objected for it being out of scope. Chairman Baca told Attorney Montalbano that he could not read from Exhibit O because it has not been admitted yet. Objection sustained.

Attorney Montalbano discussed a conversation Emily Basham had with Dr. Stowell. Exhibit 11 was shown to Dr. Stowell. Attorney Montalbano asked if Dr. Stowell knew about the document. Chairman Baca said this exhibit had not been admitted. Attorney Montalbano stopped questioning on it and went on to speak about the dynamic between 3 female gorillas after Marcus the silverback moved to another facility, and Exhibit S page 40 pertaining to hosing.

City requested brief redirect. Chairman Baca approved.

City's redirect:

Attorney Serrano asked Dr. Stowell about the use of hoses and discussed the email on page 6 regarding hosing and shifting behavior. Exhibit T, zookeeper expectations was reviewed. Exhibit S, page 40 last 2 sentences of middle paragraph were read aloud. Attorney Serrano asked if based on eye-witness statements, was there an extreme, life threatening situation at the time Ms. Weise used the hose and Dr. Stowell answered. Attorney Serrano asked if the policies overviewed on shifting behaviors were available to staff and Dr. Stowell answered. City rested. Chairman Baca excused the witness.

Chairman Baca called for lunch recess at 11:57 a.m. until 1:30 p.m.

Back on record on 1:40 p.m.

City's second witness, Emily Basham:

Attorney Serrano discussed with Ms. Basham having Ms. Weise as a manager and how Ms. Weise treated other employees.

Chairman Baca asked Ms. Basham who she was referring to when she said "Debbie." Ms. Basham said Ms. Weise went by Debbie when she worked with her.

Attorney Serrano asked Ms. Basham about daily duties and responsibilities and she described them. Attorney Serrano discussed trust and its importance with staff, managers, supervisors and animals. Ms. Basham discussed gorilla behavior and dealing with aggressive situations, along with options for breaking up fighting. Attorney Serrano asked what type of training the animals received. Ms. Basham spoke about medical training and daily routines. Attorney Serrano and Ms. Basham discussed the process of shifting gorillas and tools that were used, along with protocols and changes throughout time. Attorney Serrano asked about the moving of gorillas for species diversification. Ms. Basham described the 2 female gorillas and the new silverback at the zoo. The plan to transition the family of gorillas was discussed, along with the groups behaviors after the transition. Attorney Serrano discussed events that occurred the night prior to the alleged hosing event, which was the first night the 3 female gorillas were alone and had access to each other. They went on to discuss the events the morning of the hosing incident. Attorney Serrano asked if Ms. Basham had seen the gorilla enclosure diagram before and they talked about it being posted in the ape building.

Ms. Basham was shown Exhibit P, a layout of the gorilla enclosure. No objections by Attorney Montalbano. Chairman Baca admitted Exhibit P into evidence. Attorney Serrano and Ms. Basham discussed where the gorillas were in the enclosure at the time of the incident and what time the hose was used. Attorney Serrano asked how long Marcus had been gone and Ms. Basham provided a timeline. Attorney Serrano and Ms. Basham discussed whether or not this had been an emergency situation. Attorney Serrano also discussed with Ms. Basham how often the hose was used to shift animals and who was in charge of taking notes on the animals.

Exhibit O page 2 was reviewed. Ms. Basham said these are her notes from that day. No objections. Chairman Baca admitted Exhibit O into evidence. Ms. Basham spoke about notes that should or should not have been entered and also gave information on how the gorillas are doing now. Ms. Basham went on to speak about Ms. Weise's behaviors at work. Ms. Basham then spoke about how stressful it is being in the court room with Ms. Weise today. City rested.

Chairman Baca called for a 5-minute recess at 3:00 p.m.  
Back on record at 3:06

Cross examination by Attorney Montalbano:

Attorney Montalbano mentioned how Ms. Basham seemed emotional when she spoke about how it would feel to not work with the primates anymore and discussed how hard she believes it would be for Ms. Weise to leave Matadi. Attorney Montalbano asked if Ms. Basham had ever been a supervisor in charge of staff, if she ever complained about them being interrupted during lunch, if there are more notes and about her notes not including the hose use. Ms. Basham answered and Attorney Montalbano asked about the memo from 2010. Ms. Basham answered and went on to discuss why she never reported any of the situations discussed with Stephanie or the Union. They concluded by discussing who wrote procedures for withholding food.

Redirect by City:

Attorney Serrano continued questioning about how hard she thinks it is for Ms. Weise having been moved from the primates. Attorney Serrano and Ms. Basham spoke about the importance of utilizing safety tools for emergency situations so the animals are not desensitized by use in non-emergency situations. Ms. Basham spoke about Matadi looking sick and why she did not report this to Erin. The withholding of food was discussed and the City rested.

Brief cross by Attorney Montalbano:

Attorney Montalbano and Ms. Basham discussed the use of the hose to stop a fight when introducing new gorillas to each other. Union rested.

Witness excused at 3:40 p.m.

City's 3<sup>rd</sup> Witness MG Barreras:

Attorney Gonzales discussed with Mr. Barreras his position, credentials and time as an officer/investigator. The assignment to this investigation was discussed. How Mr. Barreras' investigations were conducted were discussed. Details on the scope of this investigation were discussed. He spoke about the staff he interviewed and what he found in his investigation.

Exhibit H is admitted into evidence. No objections by Attorney Montalbano.

Mr. Barreras' summary of findings were discussed and they reviewed Exhibit R, his investigation results. Chairman Baca admitted City's Exhibit I into evidence.

Cross examination:

Attorney Montalbano asked if Exhibit H was his only document and if he names the people he interviews.

Exhibit A was reviewed, the complaint that sparked this investigation. Mr. Barreras said he had never seen it. Attorney Montalbano asked if he knew Mr. Beltran had animosity toward Ms. Weise and if he knew why others did not go to management above Ms. Weise.

Attorney Montalbano discussed Exhibit H and asked if it would have been important to talk to Ms. Weise's 2 supervisors before completing his report.

Brief redirect by City:

Attorney Serrano asked about the difference between Mr. Barreras' summary report and the full report and Mr. Barreras explained.

Follow up question by Attorney Montalbano:

Attorney Montalbano asked if Mr. Barreras interviewed Lynn Tupas and he said he did before the report.

Mr. Montoya asked if Mr. Barreras had done other City investigations. Mr. Barreras said he has done about 30 on his own.

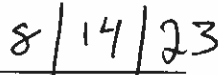
Attorney Montalbano discussed how many times the Union has hired Mr. Barreras to do investigations.

Chairman Baca asked if the City would be calling the 12 other witnesses they listed. The City said they have at least 3 left, 4 possible, but it should be quick. Attorney Montalbano said they will call 3 or 4 witnesses. Two should be somewhat short.

**VIII. ADJOURNMENT.**

Meeting adjourned at 5:14 p.m.

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

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