

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD MONDAY, JUNE 5, 2023

MEMBERS PRESENT:

Chairman Ted Baca
Juan Montoya
Bruce Perlman

OTHERS PRESENT:

Nichole Maher
Augustine Romero
Merissa Reddy
Ian Stoker
Louis Montoya
Joel Villarreal
Victoria Gammill
Sophie Rane
Fred Mowrer (zoom)

Mark Finley
Catherine Gonzalez
Jessica Serrano
James Montalbano
Casey Padilla
Marlon Battaglia
Sam Chavez
Diane Kimberle (zoom)

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 LABOR BOARD AGENDA FOR MONDAY, JUNE 05, 2023.

Mr. Montoya moved to approve the agenda for June 5, 2023. Chairman Baca seconded. Voted and passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR APRIL 24, 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 inquired on parking for meetings. There is a shortage of spots and they need to know where they can park when the lot is full. Nichole Maher said she could check with City Parking to see exactly where overflow is to go and send via email with amended agenda for 6/12/23.

V. PRESENTMENT AND APPROVAL OF ORDERS:

- **LB 21-38 STIPULATED ORDER TO DISMISS**
Approved and signed.
- **LB 20-50 STIPULATED ORDER TO DISMISS WITH PREJUDICE**
Approved and signed.
- **LB 20-17 STIPULATED ORDER TO DISMISS WITH PREJUDICE**
Approved and signed.
- **LB 20-30 ORDER TO DISMISS WITH PREJUDICE**
Approved and signed.
- **LB 21-40 ORDER TO DISMISS WITH PREJUDICE**
Approved and signed.
- **LB 21-43 ORDER TO DISMISS WITH PREJUDICE**
Approved and signed.
- **LB 21-69 ORDER TO DISMISS WITH PREJUDICE**
Approved and signed.
- **LB 22-41 ORDER TO DISMISS WITH PREJUDICE**

- Approved and signed.
- **LB 20-04 ORDER TO WITHDRAW AS COUNSEL**
Approved and signed.
- **LB 21-35 ORDER TO WITHDRAW AS COUNSEL**
Approved and signed.
- **LB 20-35 ORDER TO WITHDRAW AS COUNSEL**
Approved and signed.
- **LB 21-40 ORDER TO WITHDRAW AS COUNSEL**
Approved and signed.
- **LB 20-09 ORDER GRANTING SUBSTITUTION OF COUNSEL**
Approved and signed.
- **LB 21-54 ORDER GRANTING SUBSTITUTION OF COUNSEL**
Approved and signed.
- **LB 22-08 ORDER GRANTING SUBSTITUTION OF COUNSEL**
Approved and signed.
- **LB 22-01 ORDER GRANTING SUBSTITUTION OF COUNSEL**
Approved and signed.
- **LB 22-09 ORDER GRANTING SUBSTITUTION OF COUNSEL**
Approved and signed.
- **LB 22-19 ORDER GRANTING SUBSTITUTION OF COUNSEL**
Approved and signed.

10-minute recess called at 9:46 am by Chairman Baca.
Call back to order at 9:56 am.

VI. MISCELLANEOUS/STATUS CONFERENCE:

- **LB 21-37 STATUS OF DESK AUDIT FOR 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 appeared for the City and Attorney James Montalbano appeared for AFSCME.
Mr. Stoker said his client said the desk audit was completed last week and are writing up the report.
The final result was that they did not find employees were working outside their scope of work.
Chairman Baca suggested we have a hearing to determine the audit was correct.
Mr. Stoker said that would be a good option. No timeline received on completion date but will get to Mr. Montalbano when done.
Chairman Baca said to add to agenda on July 17th for status of desk audit.

VII. SCREENING/INVESTIGATION AND ENTRY OF 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 AFSCME Local 1888, represented by Attorney James Montalbano.
Assistant City Attorney Catherine Gonzalez and Attorney Ian Stoker appeared on behalf of the City.
Chairman Baca asked if this has been consolidated with LB 22-08.
Mark Finley commented on case and Mr. Stoker objected that it was outside scope of current discussion.
Chairman Baca sustained, stated Finley could comment on consolidation but not on facts of case.
Mr. Stoker said combined order was done out of convenience, not to say they were consolidated.
Mr. Stoker said to dispute facial validity they should not be consolidated today. LB 22-08 they have no issues with but LB 21-54 they have objections to.

Mr. Perlman spoke on how facial validity is determined and those timelines, along with Board's investigation. The discussion constitutes their determination and why they do it at Labor Board meetings, instead of not having relevant parties present.

Chairman Baca proceeded to check facial validity.

Mr. Stoker provided facts of the case.

Mr. Montalbano provided a response.

Chairman Baca asked Mr. Stoker for clarification and Mr. Stoker provided.

Mr. Perlman clarified that unless a mini hearing to dismiss was held, the claim AFSCME made will be accepted if it is a valid claim, whether or not what they claim is the full truth.

Chairman Baca asked Mr. Montalbano if there is a rule on proceeding with investigation after timeline missed and he said he was not sure and not ready to dispute that at this time.

Mr. Perlman entered motion to accept LB 21-54 as facially adequate and now entered as PPC. Montoya seconded, voted and passed 3-0.

Chairman circled back and asked if these should be consolidated. Mr. Stoker said he feels they should be separate at this time but may be on the same scheduling order. May treat as consolidated but not do formally until the end.

Chairman asked Mr. Stoker to enter order on facial validity review and investigation and state Board concluded they were facially valid and investigation was completed at hearing.

- **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.**

Attorney Ian Stoker and Assistant attorney Catherine Gonzales for the City and Attorney Mr. Montalbano and Sam Chavez for AFSCME.

Mr. Stoker does not have any objections and the Board said this PPC is admitted.

- **LB 21-74 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF AUGUSTINE ROMERO AGAINST THE CITY OF ALBUQUERQUE ARTS & CULTURE DEPARTMENT FOR VIOLATIONS OF LMRO 3-2-9 (A5) AND (A6), INCLUDING BUT NOT LIMITED TO CBA 0.1 PREAMBLE, 0.4.1 RECOGNITION, 23.1.1 CONDITIONS OF EMPLOYMENT, 39.1 NON-DISCRIMINATION.**

Ian Stoker and Catherine Gonzales for the City and Mr. Montalbano and Augustine Romero for AFSCME.

Chairman asked if there was any objection to validity.

Ms. Gonzales objected and stated it does not identify any agreed to practice that was violated.

Mr. Montalbano says it does state

Mr. Montoya asked question of the City and Mr. Stoker replied. Ms. Gonzales also commented. Mr. Perlman spoke about referencing specific section of the LMRO when complaints are filed.

Mr. Perlman moved that LB 21-74 that complainant take 5 days to make claim clearer.

Chairman said matter stayed until complaint is amended. Baca 2nd. Voted, passed 3-0.

Chairman called 10 minute recess at 10:51 am.

Back from recess.

- **LB 23-03 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624 BY AND THROUGH EXECUTIVE BOARD MEMBER LOUIS MONTOYA ON BEHALF OF ARTHUR BLEA AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT PURSUANT TO ARTICLE 2 OF THE LMRO SECTION 3-2-9 INCLUDING BUT NOT LIMITED TO CBA 24.1.7 JUST CAUSE, 24.1.5.1 DISCIPLINE AND INVESTIGATIONS AND 902.2 DISCIPLINARY PROCEDURES.**

Ian Stoker and Catherine Gonzales for the City and Sam Chavez for AFSCME.

City has no objections to facial validity.

Chairman Baca said after investigation and facial validity screen, new PPC is admitted. Asked City to submit order.

Board voted and passed 3-0.

- **LB 23-05 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 LMRO SECTION 3-2-8 AND SECTION 3-2-10 (A)(5), (7) AND (9) AND CBA SECTION 2.1.4 PAY EQUITY.**
 Ian Stoker and Catherine Gonzales for the City and Mr. Montalbano and Sam Chavez for AFSCME.
 Mr. Montalbano stated City does not dispute validity of PPC. Mr. Stoker said this was correct.
 Chairman conducted screen of facial validity and Board completed investigation.
 Board voted and passed 3-0.
- **LB 23-08 SCREEN FOR FACIAL VALIDITY OF NEW PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF AUGUSTINE ROMERO AGAINST THE CITY OF ALBUQUERQUE DEPARTMENT OF ARTS & CULTURE FOR VIOLATIONS OF LMRO 3-2-10 SECTIONS (A1) AND (A7), INCLUDING BUT NOT LIMITED TO CBA 0.4.1 RECOGNITION.**
 Attorney Ian Stoker and Assistant attorney Catherine Gonzales for the City and Mr. Montalbano and Sam Chavez for AFSCME.
 No challenge to facial validity by Board. Ms. Gonzales stated no challenges to facial validity.
 Mr. Perlman commented on how this could be clearer, citing LMRO or CBA. He said he has a template for checking facial validity for the Board to use and will send it to Nichole Maher to disseminate to all parties.
 Mr. Perlman moved to accept. Voted and passed 3-0.
 Chairman said order to be submitted on this PPC.

VIII. MOTION HEARING:

- **LB-20-09 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.**
 Mr. Stoker and Ms. Gonzales for City, Mr. Montalbano for AFSCME
 Mr. Stoker asked if this could be continued to next hearing so they may work with other party about job placement and backpay.
 Mr. Montalbano stated no dispute over backpay at this time and this will likely be resolved by June 12th.

IX. MERITS HEARING:

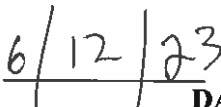
- **LB 22-24 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF ROBELLIA RUIZ AGAINST THE CITY OF ALBUQUERQUE FAMILY AND COMMUNITY SERVICES DEPARTMENT FOR VIOLATIONS OF LMRO 3-2-9 (A6), INCLUDING BUT NOT LIMITED TO CBA 24 INVESTIGATIONS AND DISCIPLINE, 24.2.3 TERMINATION, 25.2 APPEALS AND PERSONNEL RULES AND REGULATIONS, 301.2 PROFESSIONAL EXCELLENCE AND 301.3 STANDARDS OF CONDUCT.**
 Attorney Ian Stoker and Assistant attorney Jessica Serrano for City, Sam Chavez for AFSCME. Parties came to agreement and would like to dismiss with prejudice.
 Order granted and case dismissed with prejudice.
 Approved and signed by Board.

X. ADJOURNMENT.

Meeting adjourned at 11:38 am.



TED BACA, CHAIR
City Labor-Management Relations Board



DATE

cc: Tim Keller, Mayor Ethan Watson, City Clerk