

# CITY OF ALBUQUERQUE



## LABOR-MANAGEMENT RELATIONS BOARD

*Monday, December 10, 2018*

600 2<sup>nd</sup> Street NW, 7<sup>th</sup> Floor, Albuquerque, NM 87102

### HEARING ROOM 1

MEMBERS PRESENT:

Chairman Ted Baca  
Juan Montoya  
Nicholas Hart

OTHERS PRESENT:

Kevin Morrow	Casey Padilla
Ian Stoker	Rocky Gutierrez
Devon Moody	Shane Youtz
Nick Nunez	James Montalbano
Melissa Kountz	Fred Mowrer
John Soliday	Jessica Enriquez

### Minutes

**I. CALL TO ORDER.**

Board member Juan Montoya called the meeting to order at 9:00 a.m. Nicholas Hart and Chairman Ted Baca were also present.

PO Box 1293

**II. BOARD MEMBERS JUAN MONTOYA AND NICHOLAS HART WILL VOTE TO SELECT TED BACA AS CHAIR OF THE LABOR MANAGEMENT RELATIONS BOARD.**

Mr. Montoya moved to select Ted Baca as chair. Mr. Hart seconded. Voted and passed 2-0.

Albuquerque

**III. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, DECEMBER 10, 2018,**

Mr. Montoya moved to approve the agenda. Mr. Hart seconded. Voted and passed 3-0.

NM 87103

**IV. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR DECEMBER 5, 2018.**

Mr. Montoya moved to approve the minutes for December 5, 2018. Mr. Hart seconded. Voted and passed 3-0.

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

Chairman Baca stated that Mr. Hart will not be available for any meetings in January and moved to vacate all meetings for January 7<sup>th</sup>, January 9<sup>th</sup> and January 16, 2019. Assistant City Attorneys Nick Nunez, Devon Moody, Melissa Kountz and Ian Stoker were all present for the City and gave brief statements. Fred Mowrer, Attorney for APOA was also present. After discussion by the parties and the Board members, LB 17-06 was rescheduled for merits hearing to December 21, 2018.

The Board also scheduled meetings for February 6<sup>th</sup>, February 13<sup>th</sup>, February 22<sup>nd</sup>, and March 27, 2019.

**VI. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**

None.

**VII. PRESENTMENT OF ORDERS.**

The City submitted an Order on Joint Motion to Vacate Merits Hearing and Amend Scheduling Order in LB 18-15, and it was approved and signed by the Board members.

**VIII. STATUS OR SCHEDULING OF MERITS HEARING:**

- **LB 11-38, STEP III GRIEVANCE ON BEHALF OF ALBUQUERQUE POLICE DEPARTMENT COURT SERVICES EMPLOYEES WORKING OUT OF CLASSIFICATION. ( AFSCME LOCAL 2962)**

Ms. Kountz appeared on behalf of the City and stated that the Board previously signed an Order to Stay Proceedings until December 17, 2018. Chairman Baca scheduled this matter for merits hearing on February 13, 2019.

**IX. NEW BUSINESS AND ENTERING OF SCHEDULING ORDERS:**

- **LB 18-06, STEP III GRIEVANCE FILED BY AFSCME LOCAL 2962 ON BEHALF OF ALICIA RIVERA AGAINST THE CITY OF ALBUQUERQUE HUMAN RESOURCES DEPARTMENT.**

Ms. Kountz appeared on behalf of the City and stated that this matter has been withdrawn.

- **LB 18-08, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 2962 ON BEHALF OF STEPHANIE CHAVEZ AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR VIOLATING THE LMRO BY DISCIPLINING MS. CHAVEZ WITHOUT JUST CAUSE.**

Ms. Moody appeared on behalf of the City and stated that the City has filed a Motion and the Union filed a Response, therefore this matter is prepared for motions hearing. Chairman Baca scheduled this matter for a motions hearing on December 21, 2018.

- **LB 18-09, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF SOLID WASTE CONVENIENCE CENTER SUPERVISORS AGAINST THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR REQUIRING THESE EMPLOYEES TO WORK OUTSIDE THEIR CLASSIFICATION AND VIOLATING THE LMRO 3-2-9A6 AND THE CBA 0.1;0.4 AND 13.1.**

Ms. Moody appeared on behalf of the City and stated that the City has filed a Dispositive Motion and the Union has not filed a Response. James Montalbano, Attorney for AFSCME appeared and stated that this matter may be withdrawn by the Union. Chairman Baca scheduled this matter for motions hearing on December 21, 2018.

- **LB 18-10, PROHIBITED PRACTICE COMPLAINT FILED BY ALBUQUERQUE POLICE OFFICERS' ASSOCIATION AGAINST THE CITY OF ALBUQUERQUE AND CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR FAILING TO HONOR THE COLLECTIVE BARGAINING AGREEMENT IN PLACE BY HIRING PRIVATE CONTRACT CIVILIAN EMPLOYEES AND NOT ATTEMPTING TO DETERMINE WHETHER THE POSITIONS COULD BE FILLED BY CERTIFIED POLICE OFFICERS.**

Mr. Stoker appeared on behalf of the City and stated that the City will discuss a scheduling order with Mr. Mowrer and get an order submitted to the Board. Chairman Baca scheduled this matter for merits hearing on February 13, 2018.

- **LB 18-11, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 AGAINST THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR CHANGING A JOB DESCRIPTION WITHOUT UNION CONSENT AND AGREEMENT.**

Ms. Moody appeared on behalf of the City and stated that the City filed a Motion on October 5, 2018 and no response has been received from the Union. Chairman Baca stated that a response is due by the Union by December 21, 2018 and he scheduled this matter for motions hearing on February 6, 2019.

**X. MOTIONS HEARING:**

• **LB 13-02, CITY'S MOTION TO DISMISS.**

Rocky Gutierrez appeared on behalf of AFSCME and stated that this matter has been withdrawn by the Union.

• **LB 15-31, CITY'S MOTION TO DISMISS AND PETITIONER'S RESPONSE TO CITY'S MOTION TO DISMISS.**

Ms. Kountz appeared on behalf of the City and presented the City's Motion to Dismiss. Mr. Montalbano appeared on behalf of AFSCME and presented the Petitioner's Response to the City's Motion to Dismiss.

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. Hart seconded. A roll call vote was taken and passed 3-0.

Mr. Hart 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. The Board was in closed session to discuss the Board's decision in LB 15-31 and no other matters were discussed.

Mr. Hart moved to deny the City's Motion to Dismiss. Mr. Montoya seconded. Vote taken and passed 3-0. Chairman Baca scheduled this matter for merits hearing on March 27, 2019.

**XI. MERITS HEARING RESCHEDULED FROM NOVEMBER 16, 2018:**

• **LB 14-28, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF SOLID WASTE EMPLOYEE(S) AGAINST THE CITY OF ALBUQUERQUE'S SOLID WASTE MANAGEMENT DEPARTMENT FOR FAILING TO NEGOTIATE IN GOOD FAITH WITH THE ROUTE COMMITTEE.**

Mr. Stoker and Ms. Moody appeared on behalf of the City. Shane Youtz, Attorney for the Union appeared on behalf of AFSCME. Exhibits were admitted by the parties and the following witnesses were called to testify; Rocky Gutierrez, Casey Padilla, Jill Holbert, Craig Callison, James Mora and John Soladay.

Chairman Baca ordered the parties to submit written closings and proposed findings of facts and conclusions of law by January 31, 2019.

**XII. ADJOURNMENT.**

Mr. Montoya moved to adjourn. Mr. Hart seconded. Voted and passed 3-0 and the meeting was adjourned at 4:06 p.m.

APPROVED:

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

12/21/18  
DATE

cc: Tim Keller, Mayor      Katy Duhigg, City Clerk