

LABOR-MANAGEMENT RELATIONS BOARD
Friday, February 22, 2019
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Chairman Ted Baca
Juan Montoya
Nicholas Hart

OTHERS PRESENT:

<i>Kathleen Ahghar</i>	<i>Casey Padilla</i>
<i>Ian Stoker</i>	<i>Rocky Gutierrez</i>
<i>Devon Moody</i>	<i>Fred Mowrer</i>
<i>Nick Nunez</i>	<i>Michael Dorin</i>

Minutes

I. CALL TO ORDER.

Chairman Ted Baca called the meeting to order at 9:08 a.m. Board members Juan Montoya and Nicholas Hart were also present.

II. REVIEW AND APPROVAL OF THE AGENDA FOR FRIDAY, FEBRUARY 22, 2019,

Chairman Baca stated that the Board had agreed at the previous meeting to remove LB 18-10 from merits hearing and instead schedule it on this agenda for motions hearing. Ian Stoker, Assistant City Attorney appeared on behalf of the City and stated that the parties were prepared to move forward with motions hearing. Chairman Baca made a motion to amend item IX and move the merits hearing in for LB 18-10 to item VIII for motions hearing. Mr. Hart seconded. Voted and passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR FEBRUARY 13, 2019.

Mr. Montoya moved to approve the minutes for February 13, 2019. Mr. Hart seconded. Voted and passed 3-0.

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

Nick Nunez, Assistant City Attorney appeared on behalf of the City and stated that the City filed a Motion to Dismiss or Alternatively Vacate Merits Hearing for March 5, 2019 for LB 18-15, because the Union did not comply with the scheduling order. Mike Dorin appeared on behalf of AFSCME and stated that the parties have discussed and the City agreed to allow the Union more time to comply with the scheduling order. After a brief discussion Chairman Baca stated that the City's Motion is denied and the merits hearing will remain scheduled for March 5, 2019.

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

None.

VI. PRESENTMENT OF ORDERS.

- **LB 18-13, ORDER DENYING CITY'S MOTION FOR SUMMARY JUDGMENT.**

Approved and signed by the Board members.

VII. NEW BUSINESS AND ENTERING OF SCHEDULING ORDERS:

- **LB 18-26 PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624 ON BEHALF OF DAVID VAN WAGNER AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT FOR VIOLATION TO THE CBA 24.1.7 AND 24.1.5.1 AND THE LMRO 3-2-9A(6).**

Ian Stoker, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. Mr. Stoker stated that the City sent a proposed scheduling order and a joint statement of issues to Mr. Gutierrez, but has not received a response. After a brief discussion the Board scheduled this matter for merits hearing on August 19, 2019 and ordered the Union to file their portion of the joint statement of issues by March 5, 2019.

- **LB 18-27, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF COURT SERVICES SPECIALIST AGAINST THE CITY OF ALBUQUERQUE FOR LMRO 3-2-9A3, 3-2-9A6 AND CBA 0.1, PREAMBLE, 0.4. RECOGNITION.**

Mr. Nunez appeared on behalf of the City. Patricia French, AFSCME Representative was not present. Mr. Nunez stated that the parties filed a Notice of Agreed Extension to meet and confer and there is a pending proposed order and statement of issues that was submitted to the Union. After a brief discussion the Board scheduled this matter for merits hearing on June 3, 2019.

VIII. MOTIONS HEARING:

- **LB 18-15, CITY'S MOTION FOR SUMMARY JUDGMENT AND CITY'S MOTION TO COMPEL OR ALTERNATIVELY LIMIT PETITIONER'S RECOVERY DUE TO FAILURE TO PRESERVE EVIDENCE.**

Mr. Nunez appeared on behalf of the City and presented the City's Motion for Summary Judgment. Mr. Dorin appeared on behalf of AFSCME and Vanessa Montano and presented Petitioner's Response to City's Motion for Summary Judgment.

Mr. Hart 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 to discuss LB 18-15. Mr. Montoya 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 passed 3-0. Chairman Baca stated that the Board was in closed session to discuss LB 18-15 and no other matters were discussed.

Chairman Baca made a motion to deny the Motion with respect to the timeliness issue because there are disputed questions of facts and moved to grant the Motion on grounds that there was no prohibited practice conduct by the City. Mr. Hart seconded. Voted and passed 3-0.

- **LB 18-10, CITY'S MOTION FOR SUMMARY JUDGMENT AND PETITIONER'S RESPONSE TO CITY'S MOTION FOR SUMMARY JUDGMENT.**

Mr. Stoker appeared on behalf of the City. Attorney Fred Mowrer appeared on behalf of APOA.

Mr. Hart 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 to discuss LB 18-15. Mr. Montoya 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 passed 3-0. Chairman Baca stated that the Board was in closed session to discuss LB 18-10 and no other matters were discussed.

Mr. Hart moved to deny the City's Motion for Summary Judgment. Mr. Montoya seconded. Voted and passed 3-0.

IX. MERITS HEARING:

- **LB 15-28, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624 ON BEHALF OF DAVID MENDOZA, TERMINATED FROM DMD AGAINST THE CITY OF ALBUQUERQUE AND CITY'S DEPARTMENT OF MUNICIPAL DEVELOPMENT AND FOR VIOLATIONS OF THE LMRO 3-2-9 (A)(5) AND (A)(6) AND OF THE COLLECTIVE BARGAINING AGREEMENT 0.1.1 AND 24.1.5.**

Mr. Stoker and Devon Moody appeared on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME. Exhibits were admitted by the parties and the following witnesses were called to testify; Rudy Leyba, Jesse Valdez, Joseph Sanchez, Greg Smith and Wilfred Gallegos.

The merits hearing continued for March 5, 2019.

- **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.**

See item II.

X. ADJOURNMENT.

Mr. Hart moved to adjourn. Mr. Montoya seconded. Voted and passed 3-0. The meeting was adjourned at 4:57 p.m.

APPROVED:

TED BACA, CHAIR
City Labor Management Relations Board

DATE

cc: Tim Keller, Mayor Katy Duhigg, City Clerk