

**CITY OF ALBUQUERQUE
PERSONNEL BOARD**

SONJA BROWN, CHAIRPERSON
KARL BRAITHWAITE
JOHN CASTILLO
SARAH FETTY
THOMAS ZANE REEVES

WEDNESDAY, NOVEMBER 13, 2019
2:30 P.M.

600 2ND STREET NW, 7TH FLOOR, ALBUQUERQUE, NM 87102

MEMBERS PRESENT:

*Chairperson Sonja Brown
John Castillo
Sarah Fetty
Karl Braithwaite*

OTHERS PRESENT:

*Lara Christensen Jeremy Dear
Melissa Kountz John Dear
Devon Moody Juan Martinez Luna
Kelly Haney Jessica Enriquez*

Minutes

I. CALL TO ORDER.

Chairperson Sonja Brown called the meeting to order at 2:30 p.m. Board members John Castillo, Karl Braithwaite and Sarah Fetty were also present. Thomas Zane Reeves was not present.

II. REVIEW AND APPROVAL OF THE PERSONNEL BOARD AGENDA FOR WEDNESDAY, NOVEMBER 13, 2019.

Mr. Braithwaite moved to approve the agenda for November 13, 2019. Ms. Fetty seconded. Voted and passed 4-0.

III. REVIEW AND APPROVAL OF PERSONNEL BOARD MINUTES FOR WEDNESDAY, AUGUST 14, 2019.

Ms. Fetty moved to approve the minutes for August 14 2019. Mr. Braithwaite seconded. Voted and passed 4-0.

IV. PB 14-24, GRIEVANT'S REQUEST FOR HEARING AND ORDER.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Grievant Jeremy Dear was present and his attorney Thomas Grover appeared telephonically. Mr. Grover stated that the Request for Hearing was submitted because during the hearing with Hearing Officer Patrick Bingham the City presented evidence of the inventory of uploaded videos and indicated that there were 55% recorded and 45% unrecorded. City argued that 45% was a significant amount. The Hearing Officer's Recommendation was that lesser sanction was warranted but not termination. The Board agreed with the Hearing Officer's Recommendation and it was upheld and the City filed their appeal with District Court. This case was remanded to the Board for supplemental findings and then Judge Campbell reversed the Board's decision.

Grievant then filed a Motion for Reconsideration and it was denied by the judge and so then he filed a Writ of Certiorari with Court of Appeals and it is currently pending a decision. During the course of time Mr. Dear submitted a public record request for the inventory of his uploaded videos. The Records Custodian stated that there were thousands even though not all could be produced because only active videos were available and the others were deleted, corrupted or expired. This amount was a huge difference from the hundreds that were used in City's evidence. Mr. Dear determined that 92.7% percent were recorded opposed to the 55%. Ms. Kountz argued that once an appeal is filed with Court of Appeals lower tribunals no longer have jurisdiction and the jurisdiction rests solely with the Court of Appeals until they issue a Decision on the Grievant's Writ of Certiorari.

Ms. Fetty moved 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. Mr. Castillo seconded. A roll call vote was taken and passed 4-0.

Ms. Fetty moved to return to open session. Mr. Braithwaite seconded. A roll call vote was taken and passed 4-0. Chairperson Brown stated that the Board was in closed session to discuss PB 14-24 and no other matters were discussed.

Mr. Castillo moved to deny the Grievant's Request for Hearing and Order. Mr. Braithwaite seconded. Voted and passed 4-0.

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

None.

VI. 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.

See item IV.

VII. PUBLIC COMMENTS.

John Dear, Retired Albuquerque Police Officer and Jeremy Dear's father appeared and gave comment regarding PB 14-24. He stated that he has never heard of an incident where new evidence is found that exonerates somebody that has been wrongfully convicted or terminated and no one wants to pay attention to that. Jeremy Dear also gave brief comments and stated that Chief Geier suggested he bring this matter in front of the Board once again because the initial evidence brought against him was found to be incorrect and what the City is doing to him is wrong. Mr. Braithwaite stated that the Board can not act now when this matter is pending in front of a court and it is up to the court to remand it back to the Board.

VIII. OTHER MATTERS.

None.

IX. ADJOURNMENT.

Mr. Castillo moved to adjourn. Ms. Fetty seconded. Voted and passed 4-0.

APPROVED:

CHAIRPERSON, SONJA BROWN
City Personnel Board

DATE

cc: *Timothy M. Keller, Mayor*
Katy Duhigg, City Clerk