

LABOR-MANAGEMENT RELATIONS BOARD

Friday, November 19, 2021

MEMBERS PRESENT:

*Chairman Ted Baca
Juan Montoya
Bruce Perlman*

OTHERS PRESENT:

*Leigh Brunner
Ian Stoker
Justin Pennington
Merissa Reddy
Catherine Gonzales
Jessica Enriquez
Fred Mowrer
John D'Amato
James Montalbano
Jason Burnette
Rocky Gutierrez*

Minutes

I. CALL TO ORDER.

Chairman Baca called the meeting to order. Board members Juan Montoya and Bruce Perlman were also present.

II. REVIEW AND APPROVAL OF THE AGENDA FOR FRIDAY, NOVEMBER 19, 2021.

Assistant City Attorney Justin Pennington appeared on behalf of the City and stated that the parties request a continuance for the merits hearing for LB 20-37 listed under item XII and an Order to Stay Proceedings was submitted and approved by the Board. Attorney Jason Burnette appeared on behalf of the City and attorney John D'Amato appeared on behalf of the Union for LB 21-16 and the parties filed a Motion to Vacate the Merits Hearing also listed under item XII. Mr. Montoya moved to approve the amended agenda. Mr. Perlman seconded. Voted and passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR OCTOBER 18, 2021.

Mr. Perlman moved to approve the minutes for October 18, 2021. Chairman Baca seconded. Voted and passed 3-0.

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

The Board discussed rescheduling the December 6, 2021 meeting because Mr. Montoya will not be available. They agreed to reschedule to Monday, December 27, 2021.

V. RECEIPT OR PRESENTMENT OF STIPULATED DISMISSALS AND SETTLEMENTS:

- **LB 16-19, STIPULATED ORDER OF DISMISSAL**
Approved and signed by the Board.
- **LB 16-35, ORDER OF DISMISSAL.**
Approved and signed by the Board.

VI. PRESENTMENT OF ORDERS:

- **LB 21-07, SCHEDULING ORDER.**

Attorney James Montalbano appeared on behalf of the Union and Mr. Burnette appeared on behalf of the City. The parties stated that all deadlines on the Scheduling Order have been complied with and need a hearing date. Chairman Baca scheduled the merits hearing for December 27, 2021.

VII. UNION'S LETTER NOMINATING JUAN MONTOYA AS LABOR EMPLOYEE APPOINTEE FOR THE NEXT TWO-YEAR TERM:

- **PURSUANT TO § 3-2-16 (A) EACH EXCLUSIVE REPRESENTATIVE SHALL APPOINT ONE PERSON TO A COMMITTEE THAT WILL BE CHARGED WITH SELECTING ONE PERSON TO THE BOARD. THIS COMMITTEE WILL MEET ONCE EVERY TWO YEARS IN SEPTEMBER AND SELECT THE EMPLOYEES' MEMBER OF THE BOARD FOR THE FOLLOWING YEARS.**

Rocky Gutierrez appeared on behalf of AFSCME Local's and stated that he drafted a letter nominating Juan Montoya to be re-elected as the labor appointee for the Board. The letter was circulated to Fred Mowrer, Attorney for APOA and IAFF. Leigh Brunner, attorney for the Board stated that the letter for Mr. Montoya's nomination will be provided to Helen Maestas to be presented to City Council for final review and approval.

VIII. REQUEST FOR STATUS UPDATE FROM CITY AND LABOR ORGANIZATIONS ON AFFIRMATIONS REQUIRED UNDER § 10-7E-10(D) & (E) NMSA 1978:

- **SEE ATTACHED BIANNUEL LOCAL BOARD PELRB FORM.**

Ms. Brunner stated that all Union organizations for the City must submit a written letter by December 31, 2021 stating they agree to have the Labor Board continue to operate. Mr. Stoker appeared on behalf of the City and stated that he has submitted his letter of affirmation on behalf of the City. Mr. Gutierrez appeared on behalf of AFSCME and stated that he will work with all local presidents to get letters submitted. Mr. Mowrer appeared on behalf of APOA and IAFF and stated that he will submit their affirmation letter.

IX. STATUS CONFERENCE:

- **CONTINUED FROM OCTOBER 18, 2021- 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. Gutierrez appeared on behalf of AFSCME. Mr. Stoker appeared on behalf of the City. The parties stated that this matter has settled and will submit an Order of Dismissal.

CONTINUED FROM OCTOBER 18, 2021- LB 20-51, PROHIBITED PRACTICE COMPLAINT FILED BY THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 244 AGAINST THE CITY OF ALBUQUERQUE AND CITY OF ALBUQUERQUE FIRE DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT AND THE PAST PRACTICES BETWEEN THE PARTIES. Mr. Mowrer appeared on behalf of APOA. Mr. Stoker appeared on behalf of the City. The parties stated that this matter is pending settlement and can be rescheduled for the next hearing. Chairman Baca rescheduled the status conference for December 27, 2021.

X. OTHER MATTERS:

- **LB 20-09, ARGUMENTS BASED ON BOARD'S OCTOBER 18, 2021 DECISION. (WRITTEN ARGUMENTS SHOULD BE FILED A WEEK PRIOR TO THE MEETING)** Mr. Pennington appeared on behalf of the City and stated that the City has submitted Findings of Facts and Conclusion of Law. Mr. Gutierrez appeared on behalf of AFSCME and stated that he requested an extension to file Findings and Conclusions and the City does not oppose. Chairman Baca granted the Union's request and they must file their Findings and Conclusions by December 10, 2021.

- **LB 21-52, CITY'S REQUEST TO STAY AND PETITIONER'S RESPONSE TO CITY'S REQUEST TO STAY.** Mr. Stoker appeared on behalf of the City and stated that the City request to stay this matter because LB 19-35 and LB 20-34 appeals are pending in District Court and they raise the same issues. Mr. Mowrer appeared on behalf of APOA and stated that the Union objects the stay because it is unfair to the complainant to have to wait for their matter to be heard while another matter is pending.

Chairman Baca 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. Perlman seconded. A roll call vote was taken and the motion passed 3-0.

Chairman Baca 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. Perlman seconded. A roll call vote was taken and the motion passed 3-0. The Board was in closed session to discuss LB 21-52 and no other matters were discussed.

Chairman Baca moved to grant the Motion to Stay filed by the City. Mr. Montoya seconded. Voted and passed 3-0.

XI. MOTIONS HEARING:

- **LB 20-41, AFSCME 3022'S MOTION FOR RECONSIDERATION.**

Mr. Montalbano appeared on behalf of AFSCME Local 3022, presented the Motion for Reconsideration. Mr. Pennington appeared on behalf of the City and presented City's opposition response.

Chairman Baca 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. Montoya seconded. A roll call vote was taken and the motion passed 3-0.

Chairman Baca 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 LB 20-41 and no other matters were discussed.

Mr. Montoya moved to grant the Motion for Reconsideration and reverse the Board's decision that previously granted the Motion to Dismiss. Chairman Baca seconded. Mr. Perlman voted nay. Vote passed 2-1.

- **LB 21-07, CITY'S MOTION FOR SUMMARY JUDGMENT AND UNION'S RESPONSE TO CITY'S MOTION FOR SUMMARY JUDGMENT.**

Attorney Jason Burnette appeared on behalf of the City of Albuquerque and presented the City's Motion for Summary Judgment. Attorney James Montalbano appeared on behalf of AFSCME and presented the Union's Response to City's Motion for Summary Judgment.

Chairman Baca 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. Montoya seconded. A roll call vote was taken and the motion passed 3-0.

Chairman Baca 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 LB 21-07 and no other matters were discussed.

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

XII. MERITS HEARING:

- **LB 20-37, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF NICK MANOLE AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT FOR VIOLATIONS OF LMRO 3-2-9A5 AND 3-2-9A6, INCLUDING BUT NOT LIMITED TO CBA 0.1 PREAMBLE, 24. INVESTIGATIONS & DISCIPLINE, 39.1 NON-DISCRIMINATION.** See item II and this matter is rescheduled for status conference on December 27, 2021.
- **LB 21-16, PROHIBITED PRACTICE COMPLAINT FILED THE ALBUQUERQUE POLICE OFFICERS' ASSOCIATION AGAINST THE CITY OF ALBUQUERQUE POLICE DEVELOPMENT FOR FAILING TO HONOR THE COLLECTIVE BARGAINING AGREEMENT CONCERNING THE AMENDMENT TO STANDARD OPERATING PROCEDURES.** See item II and this matter is rescheduled for status conference on December 27, 2021.

XIII. ADJOURNMENT. Chairman Baca moved to adjourn. Mr. Perlman seconded. Voted and passed 3-0.

TED BACA, CHAIR
City Labor Management Relations Board

DATE

cc: Tim Keller, Mayor

Ethan Watson, City Clerk