



CITY OF ALBUQUERQUE

CITY LABOR-MANAGEMENT RELATIONS BOARD

MONDAY, OCTOBER 16, 2023

MEMBERS PRESENT:

Chairman Ted Baca
Juan Montoya
Bruce Perlman

OTHERS PRESENT:

Nichole Maher
Earl Garcia
Jessica Serrano
Mark Finley
Leigh Brunner
Bill Marquez
Catherine Gonzales
Merissa Reddy (zoom)
Fred Mowrer (zoom)
Casey Padilla (zoom)

Kate Furek
Augustine Romero
Louis Sisneros
Sam Chavez
Victoria Gammill
Mary Wiese
Ian Stoker
Patricia French (zoom)
Michael Dorin (zoom)
Joel Villarreal (zoom)

MINUTES

I. CALL TO ORDER.

Chairman Baca called the meeting to order at 1:07 pm.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, OCTOBER 16, 2023.

Mr. Perlman motioned to approve agenda. Mr. Montoya seconded. Chairman Baca asked if LB 22-08 was to be included with LB 21-54. Attorney Ian Stoker, on behalf of the City said the hearing today is only on LB 21-54, not LB 22-08. Attorney James Montalbano, on behalf of the Union said he would ask that a ruling on LB 21-54 not apply to LB 22-08. Board voted and approved agenda 3-0.

III. REVIEW AND APPROVAL OF MINUTES FROM SEPTEMBER 25, 2023.

Mr. Montoya moved to approve Minutes. Mr. Perlman seconded. Voted and passed 3-0.

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

Attorney James Montalbano stated LB 23-05 has a hearing date in November. The main question depends on the City's wage study being available for everyone to review. The City said the Union is correct and the study should be completed by the end of the year. Chairman Baca asked what the study had to do with the PPC claim. Attorney Montalbano replied it was more for the parties to be able to possibly settle the dispute without furthering the case with the Labor Board. Chairman Baca approves that merits hearing being vacated for November in this case. Board said to schedule for status hearing on January 8, 2023 meeting.

V. PRESENTMENT AND APPROVAL OF ORDERS:

• LB 21-33 STIPULATED ORDER TO DISMISS WITH PREJUDICE

Chairman Baca ordered this entered. Signed and approved by Board.

VI. MISCELLANEOUS/STATUS CONFERENCE:

• STATUS OF NEW MEXICO PUBLIC EMPLOYEE BARGAINING ACT (PEBA) LETTERS FROM UNIONS. LETTERS MUST BE SUBMITTED TO LEIGH BRUNNER BY NOVEMBER 1, 2023.

Chairman Baca reminded everyone that letters are due by 11/1/23.

- **LB 20-09 STATUS OF RESOLUTION FOR 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.**

Attorney James Montalbano appeared on behalf of AFSCME Local 624. Attorney Ian Stoker and Assistant Attorney Jessica Serrano appeared on behalf of the City.

Attorney Montalbano said he thought the parties were close to reaching a decision but they ultimately did not. The Union asks a hearing before the Board be scheduled. Attorney Serrano said the City believes the Union should be made to enforce the motion already at hand. Chairman Baca said the City needs to file a motion to enforce settlement agreement, to be heard on 11/13/23. If the Board does not enforce, the Union would like a hearing, which Chairman Baca said would be scheduled 11/27/23.

- **LB 21-59 STATUS OF SETTLEMENT FOR PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF MARY WEISE FOR VIOLATIONS OF LMRO 3-2-9 (A6), INCLUDING BUT NOT LIMITED TO CBA 24 INVESTIGATIONS AND DISCIPLINE.**

Attorney James Montalbano appeared on behalf of AFSCME Local 3022. Assistant Attorney Jessica Serrano and Assistant Attorney Catherine Gonzales appeared on behalf of the City.

Attorney Montalbano announced the parties had come to an agreement on settlement.

Chairman Baca asked the City and Union if they could both put on the record that the settlement had been resolved. Both parties announced on the record they had reached a settlement.

VII. MOTION HEARINGS:

- **LB 21-54 MOTION HEARING FOR SUMMARY JUDGMENT ON 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 James Montalbano appeared on behalf of AFSCME Local 1888. Assistant Attorney Kate Furek and Attorney Ian Stoker appeared on behalf of the City.

Attorney Furek provided an overview of the case and the timeline issues raised in the PPC. City rested.

Attorney Montalbano provided an overview of what the Union felt the City was attempting to do and went over timelines. He discussed the notice that was sent by the City, prompting the first PPC.

Objection by Attorney Furek that Attorney Montalbano is speaking to LB 22-08, not LB 21-54. Attorney Montalbano said he is responding to the LB 21-54 motion at hand, paragraph 20.

Chairman Baca and Attorney Montalbano discussed how the Union felt it was implied discipline by the City was possible, and related timelines. Exhibit 8 and Exhibit 2 were discussed. The parties and Board discussed whether or not this motion was referring only to the City being allowed to continue its investigation after a missed timeline. The Board discussed the details of what the City can investigate after missed timelines. Mr. Montoya recapped what he understood to have occurred. The Union agreed and the City did not. Mr. Perlman asked if the City had a duty to investigate all incidents. Attorney Furek pointed to a rule that states the City has a duty to investigate all incidents involving violence. Chairman Baca asked if the employees were fired for any incident pertaining to the incident on July 2021. Attorney Montalbano said he believes it was related. Attorney Furek stated the City did not discipline based on the investigation. The City said they fired the employees after they failed to complete an interview. Attorney Montalbano suggested the hearing next week would allow more time to discuss these matters. Mr. Montoya asked the City if the initial investigation topic was the same as the subsequent investigation after the timeline was missed. Attorney Furek said the City told the Union the employees were now only witnesses and no discipline would occur related to the July incident. Attorney Montalbano said subsequent letters about interviews for the investigation implied there would be discipline and the City went to the men individually to say they were looking into allegations they violated rules.

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. Session was closed at approximately 2:24 p.m.

The Board returned to open session at approximately 2:49 p.m. The meeting had been in closed session pursuant to Section 10.15.1.H.3 of the Open Meetings Act. Chairman Baca stated the Board was in closed session to discuss and deliberate on LB 21-54 and no other matters were discussed.

The Board denied motion for summary judgement. Chairman said these cases have been held simultaneously. Chairman motioned to deny and that each case be heard separately. Only case LB 21-54 will be heard next week. The Union asked if they resolved LB 21-54 before the next meeting, LB 22-08 could be heard in its place. The City and Union both agreed. Chairman Baca said if LB 21-54 is still pending, it will be heard first and alone.

Mr. Perlman motioned to modify the joint motion to say solely LB 21-54 will be heard at next week's meeting. If it is resolved by that time, LB 22-08 will be heard in its place. Chairman Baca seconded. Voted and passed 3-0.

- **LB 23-10 MOTION HEARING FOR MORE DEFINITE STATEMENT ON PROHIBITED PRACTICE COMPLAINT FILED BY APOA AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT, FOR FAILING TO ADHERE TO THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT BY ISSUING A SPECIAL-ORDER CHANGING WORKING CONDITIONS OF FORMER HOMICIDE DETECTIVES.**

Attorney Fred Mowrer appeared on behalf of APOA. Assistant Attorney Jessica Serrano appeared on behalf of the City. Attorney Mowrer said he submitted a request and had not heard back from the City. Attorney Serrano said the document appeared to be making a new claim and the City needed clarification. Attorney Mowrer said he is not making a new allegation and the new individual they are referencing was due to a personal reason. He is able to provide this information to the City off the record. The issue of "TDY" was discussed. Attorney Mowrer stated it was only used as an example. Chairman Baca asked Attorney Serrano to read the paragraph under discussion and she did. Chairman asked if the statement was more definite for the City. Attorney Serrano said it was, but at the same time opened up new issues regarding the right to bid. The Board decided clarification was obtained.

- **LB 23-11 MOTION HEARING FOR DISCOVERY ON PROHIBITED PRACTICE COMPLAINT FILED BY APOA ON BEHALF OF ZACHERY HERBST AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT, FOR FAILING TO ADHERE TO THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT BY NOT COMPLYING WITH THE BOARD'S ORDER REGARDING TIMELY DISCIPLINE (LB 19-35/LB 20-34).**

Attorney Fred Mowrer appeared on behalf of APOA. Assistant Attorney Victoria Gammill appeared on behalf of the City. Chairman Baca asked if the motion for discovery was resolved. Attorney Mowrer said it was. Chairman Baca declared that for this particular motion of discovery, the motion has been resolved.

- **LB 23-17 MOTION HEARING FOR DISCOVERY ON PROHIBITED PRACTICE COMPLAINT FILED BY ALBUQUERQUE POLICE OFFICERS' ASSOCIATION BY AND THROUGH ITS ATTORNEY OF RECORD FREDERICK MOWRER ON BEHALF OF OFFICER D. ELLIS AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR FAILING TO ADHERE TO THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT BY NOT COMPLYING WITH THE BOARD'S ORDER REGARDING TIMELY DISCIPLINE (19-35/20-34).**

Attorney Fred Mowrer appeared on behalf of APOA. Assistant Attorney Jessica Serrano appeared on behalf of the City. Chairman Baca asked about having this motion hearing and if the City had refused to provide the discovery requested by the Union. It was discussed that the party can file a discovery request instead of a motion. Motion requests will be scheduled quickly moving forward. Attorney Mowrer said he had not received anything from the City as of yet.

It was discussed that moving forward parties will file a request for information before a motion is filed.

VIII. ADJOURNMENT.

Chairman Baca adjourned at 3:22 pm.



TED BACA, CHAIR

City Labor-Management Relations Board

11/6/23

DATE

