

LABOR-MANAGEMENT RELATIONS BOARD

Monday, October 18, 2021

MEMBERS PRESENT:

Chairman Ted Baca
Juan Montoya
Bruce Perlman

OTHERS PRESENT:

Leigh Brunner Ian Stoker
Melissa Kountz Merissa Reddy
John D'Amato Fred Mowrer
Jessica Enriquez Devon Moody

Minutes

I. CALL TO ORDER.

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

II. REVIEW AND APPROVAL OF THE AGENDA FOR MONDAY, OCTOBER 18, 2021.

Mr. Montoya moved to approve the agenda for October 18, 2021. Mr. Perlman seconded. Voted and passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR SEPTEMBER 13, 2021.

Mr. Perlman moved to approve the minutes for September 13, 2021. Mr. Montoya seconded. Voted and passed 3-0.

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

None.

V. RECEIPT OR PRESENTMENT OF STIPULATED DISMISSALS AND SETTLEMENTS.

- **LB 19-41, STIPULATED ORDER OF DISMISSAL.**
Approved and signed by the Board.

VI. PRESENTMENT OF ORDERS:

- **LB 21-51, ORDER GRANTING UNOPPOSED REQUEST FOR EXTENSION OF DEADLINE TO ANSWER PPC.**
Assistant City Attorney Ian Stoker appeared on behalf of the City and stated that the parties have settled this matter and the Order is withdrawn.

VII. CONTINUED FROM SEPTEMBER 13, 2021 - DISCUSSION OF BOARD APPOINTMENTS FOR THE NEXT TWO-YEAR TERM:

§ 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, AFSCME Representative stated that AFSCME and APOA nominate Juan Montoya to continue to serve as the elected personal for employee organizations. Mr. Montoya accepted the nomination and the Union's will file a formal letter with the Board.

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.**

Assistant City Attorney and Board counsel Leigh Brunner stated that the State Public Employee Bargaining Act requires the Labor Board to submit an affirmation by December 31, 2021, that both the City and labor organizations have elected to have the Board continue to exist. Each labor organization must submit a written notice to the Board that it affirmatively elects to continue to operate under the local board. The City must also submit its own affirmation. Chairman Baca stated that the Board will continue to place this item on agendas until letters are received. The next scheduled meeting is November 19, 2021.

IX. STATUS CONFERENCE:

• **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.**

Assistant City Attorney Devon Moody appeared on behalf of the City and Mr. Gutierrez appeared on behalf of AFSCME. The parties stated that this matter has been resolved and closing documents will be submitted. Chairman Baca rescheduled this matter for status conference on November 19, 2021.

• **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.**

Attorney James Montalbano appeared on behalf of AFSCME and Assistant City Attorney Justin Pennington appeared on behalf of the City. The parties stated that this matter is ready to be scheduled. Chairman Baca scheduled this matter for merits hearing on November 19, 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.**

Ms. Moody appeared on behalf of the City and attorney Fred Mowrer appeared on behalf of IAFF. The parties stated that they are in settlement negotiations. Chairman Baca rescheduled this matter for status conference on November 19, 2021.

• **LB 21-02, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF THE FALSE ALARM REDUCTION UNIT SUPERVISOR AGAINST THE CITY OF ALBUQUERQUE FOR RECLASSIFYING THE POSITION TO AN E-15 INSTEAD OF AN M-15 AND VIOLATING LMRO. 3-2-8 (A)(B), 3-2-9 (A1) (A6) INCLUDING BUT NOT LIMITED TO CBA 0.1 PREAMBLE AND 0.4 RECOGNITION.**

Mr. Stoker appeared on behalf of the City and Mr. Montalbano appeared on behalf of the Union. The parties stated that this matter is ready for scheduling of a merits hearing. The Board scheduled this matter for merits hearing on December 6, 2021.

X. MERITS HEARING:

• **LB 20-09, 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 3-2-9A6, CBA 0.1.1 AND 24.1.5 JUST CAUSE.**

Assistant City Attorney Justin Pennington appeared on behalf of the City and Rock Gutierrez appeared on behalf of AFSCME and as representative of Earl Garcia. City's exhibits 1, 3, 4, 5,

6, 7, 11, 12, 13, 14, 15, 16 and 17 were admitted and 2 and 8 were partially admitted. City withdrew exhibits 9 and 10. Union's exhibits A, B, C, D, E, F, G and H were admitted. The City called to testify Department of Municipal Development Director Patrick Montoya. Mr. Gutierrez called to testify Earl Garcia and Casey Padilla, AFSCME President. The parties must file Findings of Fact and Conclusions of Law by

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 20-09 and no other matters were discussed.

Chairman Baca made a motion to reverse the determination issued to Earl Garcia. Mr. Montoya seconded. Voted and passed 3-0. This matter is scheduled for arguments based on the Board's decision on November 19, 2021 and the parties should file proposed findings of fact and conclusions of law by the next scheduled meeting.

- **LB 20-23, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 AGAINST THE CITY OF ALBUQUERQUE PLANNING DEPARTMENT FOR VIOLATIONS OF LMRO SECTIONS 3-2-9(A)(4)(6), INCLUDING BUT NOT LIMITED TO CBA 0.31 AGREEMENT CONTROL, 0.4 RECOGNITION, 21 PERFORMANCE EVALUATIONS, 23 CONDITIONS OF EMPLOYMENT, 31 EQUIPMENT AND TOOLS.**

The Union filed a Notice of Withdrawal.

- **LB 20-46, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF JAMES FRESE AGAINST THE CITY OF ALBUQUERQUE PLANNING DEPARTMENT.**

Mr. Stoker stated that the parties have reached a settlement in this matter.

XI. ADJOURNMENT.

Mr. Montoya moved to adjourn the meeting. Chairman Baca seconded. Voted and passed 3-0.

TED BACA, CHAIR
City Labor Management Relations Board

DATE

cc: Tim Keller, Mayor
Ethan Watson, City Clerk