



CITY OF ALBUQUERQUE

CITY LABOR-MANAGEMENT RELATIONS BOARD

MONDAY, SEPTEMBER 18, 2023

MEMBERS PRESENT:

*Chairman Ted Baca
Juan Montoya
Bruce Perlman*

OTHERS PRESENT:

*Nichole Maher
Bill Marquez
Kate Furek
Joel Villarreal
Jessica Serrano
Mary Debbie Wiese
Merissa Reddy
Victoria Gammill (zoom)
Leigh Brunner*

*Catherine Gonzalez
Augustine Romero
Casey Padilla
Ian Stoker
Earl Garcia
James Montalbano
Michael Dorin (zoom)
Patricia French (zoom)*

MINUTES

I. CALL TO ORDER.

Chairman Baca called the meeting to order at 9:11 a.m.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, SEPTEMBER 18, 2023.

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

III. REVIEW AND APPROVAL OF MINUTES FOR AUGUST 21, 2023.

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

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

Attorney James Montalbano appeared on behalf of AFSCME. He stated LB 21-59 can wait for LB 21-59 to be done. City Attorney Jessica Serrano said the City is fine with switching the order of LB 21-59 and LB 23-14. Board approved adjustment and LB 23-14 will be heard today before LB 21-59.

V. PRESENTMENT AND APPROVAL OF ORDERS:

• **LB 22-09 STIPULATED ORDER TO DISMISS**

Signed and approved.

• **LB 22-23 PARTIAL STIPULATED ORDER**

Chairman Baca asked for clarification on partial issues. City Attorney Ian Stoker spoke on the partial order to dismiss on portions of the claim.

Signed and approved.

• **LB 22-23 STIPULATED ORDER DISMISSING PPC**

Signed and approved.

• **LB 21-54/LB 22-08 SCHEDULING ORDER**

City Attorney Ian Stoker stated these cases are not consolidated but being heard at the same time. The Board previously approved a hearing date in October. Chairman Baca reviewed the scheduling order.

Signed and approved.

- **LB 23-05 SCHEDULING ORDER**

Chairman Baca reviewed deadlines on scheduling order. Both parties have stipulated to these timelines per Attorney Stoker and Attorney Montalbano.

Signed and approved.

- **LB 23-08 SCHEDULING ORDER**

Chairman Baca reviewed deadlines on order. Merits hearing set in November.

Signed and approved.

- **LB 23-13 STIPULATED MOTION AND ORDER TO DISMISS WITH PREJUDICE**

Signed and approved.

VI. MISCELLANEOUS/STATUS CONFERENCE:

- **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.**

Assistant Attorney Jessica Serrano appeared on behalf of the City. Joel Villarreal appeared on behalf of AFSCME Local 624. Mr. Villarreal stated both parties have agreed on nearly everything, they are waiting for payroll to provide exact numbers on reimbursement. Chairman Baca said to schedule for a status hearing on October 16, 2023. If this is resolved before then, it will be removed from the agenda.

- **LB 23-10 SCREEN FOR FACIAL VALIDITY OF AMENDED 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.**

Assistant Attorney Catherine Gonzales and Jessica Serrano appeared on behalf of the City. Attorney Fred Mowrer appeared on behalf of APOA.

Chairman Baca went over the amended PPC. Section 10, 11, 12, 13, and 14 were reviewed.

Attorney Jessica Serrano stated the City had an issue with the complaint, arguing it is not ripe, as no discipline has been issued. Attorney Mowrer provided more detail on what was happening with Homicide Detectives transferring to different positions and being told to complete cases from their old position. Attorney Serrano said they are to turn over the cases after they make all their notes on each case. Attorney Mowrer said typically the cases are transferred to the new detectives when the old detective leaves their position. Attorney Serrano said they only want former detectives to complete notes. Attorney Mowrer said this is a lot of work and discipline is implied should they not complete the work.

Mr. Perlman asked why this is not an issue with past practice. Attorney Mowrer explained issues workers are raising with the Union. Chairman Baca asked why workers took the files with them when they went to the new positions. Attorney Mowrer said this was the first he heard of cases being taken with the detectives to their new positions and is not aware workers did or did not take the files. Chairman Baca said there seems to not be a clear understanding of the issue. Mr. Perlman said if the contention of the plaintiff is that the change in working conditions is a threat of discipline, that is what the PPC needs to state and show how it violates the CBA. The threat of discipline seems to be attenuated. Attorney Mowrer said the threat of discipline is the least worrisome issue with this PPC. The main issue is employees have traditionally been able to bid and leave to new positions without having to do more work from their previous position.

Chairman Baca motioned to find the PPC is facially valid. Mr. Montoya seconded. Perlman voted no. Passed 2-1.

- **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 the Unions that letters needed to be submitted by 11/1/2023.

VII. MERITS HEARINGS:

- **LB 23-14 MOTION TO DISMISS PROHIBITED PRACTICE COMPLAINT FILED BY APOA ON BEHALF OF OFFICER C. MARTINEZ AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT, FOR FAILING TO ADHERE TO THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT SECTION 20.1.16, BY NOT COMPLYING WITH THE BOARD'S ORDER REGARDING TIMELY DISCIPLINE (LB 19-35/LB 20-34).**

Assistant Attorney Jessica Serrano appeared on behalf of the City. Attorney Fred Mowrer appeared on behalf of APOA. Attorney Serrano said the PPC was not amended within the timeframe and the City was forced to file an order requesting dismissal.

Attorney Mowrer explained the miscommunication between him and Attorney D'Amato after he was not at the hearing when the order was made by the Board.

Chairman Baca motioned to dismiss without prejudice. Montoya seconded. Perlman voted no. Passed 2-1.

At 10:01 am Chairman Baca called for a recess until 10:15 a.m.

Returned from recess and back on record at 10:18 a.m.

- **LB 21-59 CLOSING ARGUMENTS 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.**

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

Attorney Gonzales made closing arguments. Issues at hand, testimony of witnesses, the investigation and interviews conducted by the third-party interviewer and the investigation's findings on behalf of the City were reviewed. The City rested.

Attorney Montalbano provided closing arguments. Attorney Montalbano discussed the evidence in the case and statements made by witnesses.

Chairman Baca called a 10-minute recess at 11:17 a.m.

Back on record at 11:22 a.m.

Attorney Montalbano continued closing arguments regarding evidence and testimony in the case. AFSCME rested.

Attorney Gonzales responded to Attorney Montalbano's arguments. City rested.

Mr. Perlman asked both parties if the AZA standards for lowland gorillas were adopted by the zoo at the time of the incident, to which both parties replied yes.

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 11:41 a.m.

The Board returned to open session at approximately 12:35 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 21-59 and no other matters were discussed. Chairman Baca said the Board would like the parties to enter into settlement negotiations. If they do not reach an agreement, the Board is prepared to vote on the matter on October 16, 2023.

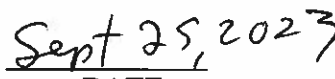
VIII. ADJOURNMENT.

Chairman Baca motioned to adjourn at 12:36 p.m. Seconded by Mr. Montoya. Voted passed 3-0.



TED BACA, CHAIR

City Labor-Management Relations Board



DATE