

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD

Monday, March 16, 2015

**600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1**

MEMBERS PRESENT:

*Patrick Halter
Susan Chappell
Juan Montoya*

OTHERS PRESENT:

*Nick Bullock Robert Montoya
Melissa Kountz Shane Youtz
Kellie Garcia Jessica Enriquez
Marie Legrand-Miller
Fred Mowrer
Melissa O'Connell*

MINUTES

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

I. CALL TO ORDER.

Chairman Patrick Halter called the meeting to order at 9:10 a.m. All members were present.

II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, MARCH 16, 2015.

Chairman Halter made a motion to approve the agenda. Juan Montoya seconded. Motion passed 3-0.

III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR FEBRUARY 23, 2015.

Chairman Halter made a motion to approve both the morning and afternoon minutes for February 23, 2015. Juan Montoya seconded. Motion passed 3-0.

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

Chairman Halter asked the parties to meet to discuss LB 11-11 prior to the merits hearing on March 30, 2015 and he suggested removing the item as hearing on the agenda until the parties meet.

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that LB 11-11 is being handled by outside council, German and Associates. She asked the Board to proceed with the matter scheduled for hearing since this matter is four years old and the city is ready to proceed.

Chairman Halter ordered the parties to discuss and narrow the issues on the merits prior to meeting.

Rocky Gutierrez was not present but Shane Youtz appeared on behalf of AFSCME and stated that he will forward the comments to Rocky Gutierrez.

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

Chairman Halter made a motion to approve three Order of Dismissal's in LB 14-27, LB 11-21 and LB-ARB-13-01. Juan Montoya seconded. Motion passed 3-0.

VI. MOTIONS:

• **LB 12-08, CITY'S MOTION TO DISMISS. (PAUL LIVINGSTON on behalf of NMTU)**

Jessica Enriquez, City Hearing Monitor stated that Robert Gutierrez called before the meeting and stated that neither he nor Paul Livingston would be present for this meeting. However, he is requesting that this matter and LB 15-03 go forward and be scheduled for a hearing.

Kelly Garcia, Assistant City Attorney appeared on behalf of the City of Albuquerque and briefed the case. She stated that the city filed a Motion to Dismiss based on the grounds that the collective bargaining agreement referenced in this complaint had expired and NMTU is no longer a valid bargaining unit and does not have standing to represent employees with contractual issues. She stated that the same exact issue was addressed in LB 12-02 and was found that no prohibited practice complaint had occurred. City request LB 12-08 be dismissed.

Chairman Halter made a motion to dismiss LB 12-08. Susan Chappell seconded. Motion passed 3-0.

• **LB 15-01, CITY'S MOTION FOR ENLARGEMENT OF TIME TO FILE DISPOSITIVE MOTION. (ROBERT MONTOYA, Petitioner)**

Marie Legrand-Miller, Assistant City Attorney appeared on behalf of the City of Albuquerque and stated that the City is currently investigating but needs more time to investigate because there are several types of complaints in this matter. She asked the Board to schedule matter for a merits hearing and allow the city to file Dispositive Motions thirty days prior to hearing.

Robert Montoya appeared and stated that there are time frames that need to be followed and since filing his grievance he has not received fair treatment.

Chairman Halter made a motion to schedule this matter for May 18, 2015 and the city has thirty days to file dispositive motions and the respondent can respond prior to the hearing. Juan Montoya seconded. Motion passed 3-0.

• **LB 15-02, CITY'S MOTION TO DISMISS. (MELISSA O'CONNELL, Petitioner)**

Melissa Kountz, Assistant City Attorney appeared on behalf of the City of Albuquerque and moved to dismiss this matter due to lack of jurisdiction. She stated that Ms. O'Connell's complaint is limited to two counts of violation apd's core values and is not part of the LMRO or collective bargaining agreement. Section 903 of the Personnel Rules and Regulations which are pursuant to merits system ordinance not the LMRO.

Melissa O'Connell appeared and stated that the base of the complaint was not a prohibited practice complaint and based on rules and regulations section 21.1.2 grievance process that advises to bring to Labor Management Board. She requests an exception because there is no other means to grieve this matter.

Ms. Kountz stated that the grievance in the Albuquerque Police Officer's Association contract and the collective bargaining agreement negotiated is limited and the Board does not have jurisdiction to make any exceptions.

Chairman Halter made a motion to dismiss LB 15-02 based on the Board not having jurisdiction to hear this matter. Susan Chappell seconded. Motion passed 3-0.

VII. NEW BUSINESS:

- **LB 15-03, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF NEW MEXICO TRANSPORTATION UNION. (PAUL LIVINGSTON and ROBERT GUTIERREZ on behalf of NMTU)**

Kelly Garcia, Assistant City Attorney for the City of Albuquerque stated that the city filed a Motion to Dismiss and a Motion to Preclude Mr. Livingston as representative in LB 15-03 and any future Labor Board matters.

Shane Youtz, appeared on behalf of AFSCME and stated that the union concurs with the city's Motion to Dismiss.

Chairman Halter made a motion to dismiss LB 15-03. Juan Montoya seconded. Motion passed 3-0.

- **LB 15-05, TOMOYOSHI STEWARD, 32-HOUR SUSPENSION; 16-HOURS TO BE SERVED AND 16-HOURS TO BE HELD IN ABEYANCE FOR 6-MONTHS I-110-114. (STEPHANIE LOPEZ, APOA)**

Fred Mowrer, appeared on behalf of APOA and presented an Order to Withdrawal LB 15-05 because matter is being processed differently.

Chairman Halter made a motion to approve the Order to Withdrawal. Juan Montoya seconded. Motion passed 3-0.

VIII. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Susan Chappell seconded. Motion passed 3-0 and the meeting was adjourned at 9:37 a.m.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board

March 30, 2015
DATE

cc: Richard J. Berry, Mayor
Trina Gurule, Acting City Clerk