

**LABOR-MANAGEMENT RELATIONS BOARD**  
***Monday, December 16, 2019***  
**600 2<sup>nd</sup> Street NW, 7<sup>th</sup> Floor, Albuquerque, NM 87102**  
**HEARING ROOM 1**

MEMBERS PRESENT:

*Chairman Ted Baca*  
*Juan Montoya*  
*Bruce Perlman*

OTHERS PRESENT:

*Leigh Brunner*                      *Ryan Harrigan*  
*Justin Pennington*                *James Montalbano*  
*Devon Moody*                        *Patty French*  
*Melissa Kountz*                      *Rocky Gutierrez*

**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, DECEMBER 16, 2019.**

Mr. Montoya moved to approve the agenda for December 16, 2019. Mr. Perlman seconded. Voted and passed 3-0.

**III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR NOVEMBER 18, 2019 AND NOVEMBER 22, 2019.** Mr. Montoya moved to approve the minutes for November 18, 2019 and November 22, 2019. Mr. Perlman seconded. Voted and passed 3-0.

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

No public comments.

**V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.** None.

**VI. PRESENTMENT OF ORDERS.**

- **LB 19-12, ORDER ON MOTION TO AMEND COMPLAINT.** Approved and signed by the Board.
- **LB 19-40, SCHEDULING ORDER.** Approved and signed by the Board and this matter is scheduled for merits hearing on April 20, 2020.
- **LB 19-16, ORDER GRANTING JOINT MOTION TO VACATE MERITS HEARING.** Approved and signed by the Board.

**VII. STATUS CONFERENCE AND/OR SCHEDULING OF MERITS HEARING:**

- **RESCHEDULED FROM NOVEMBER 18, 2019 - LB 10-06, PROHIBITED PRACTICE COMPLAINT ON BEHALF OF TRANSIT EMPLOYEES AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT. (ROCKY GUTIERREZ, AFSCME 624)** Devon Moody, Assistant City Attorney appeared on behalf of the City and Rocky Gutierrez appeared on behalf of AFSCME. The parties stated that they reached a resolution and delivered to the Board a Stipulated Order of Dismissal with Prejudice. The Order was approved and signed by the Board.

- **LB 16-18, PROHIBITED PRACTICE COMPLAINT FILED BY THE CITY OF ALBUQUERQUE AGAINST AFSCME LOCAL 624 AND 2962 EMPLOYEES FOR IMPROPERLY BILLING THE CITY FOR UNION TIME.**  
 Melissa Ksountz, Assistant City Attorney appeared on behalf of the City and stated that the parties have resolved the issues and working on finalizing the MOU. Chairman Baca rescheduled this matter for status conference on January 24, 2020.
- **LB 16-19, STEP III GRIEVANCE FILED BY AFSCME LOCAL 1888 AND DMD SECURITY OFFICERS AGAINST THE CITY OF ALBUQUERQUE DEPARTMENT OF MUNICIPAL DEVELOPMENT FOR NOT FOLLOWING THE COLLECTIVE BARGAINING AGREEMENT REGARDING OVERTIME PROCEDURES FOR OFFICERS.**  
 Justin Pennington, Assistant City Attorney appeared on behalf of the City and stated that the parties are in discussion for possible settlement but prepared to schedule for merits hearing. Chairman Baca scheduled this matter for merits hearing on February 21, 2020.
- **LB 16-24, PROHIBITED PRACTICE COMPLAINT BY AFSCME LOCAL 3022 AGAINST THE CITY OF ALBUQUERQUE FOR VIOLATING THE LABOR-MANAGEMENT RELATIONS ORDINANCE BY FAILING TO NEGOTIATE WAGES WITH THE UNION AND GIVING RAISES OUTSIDE THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT (LMRO 3-2-9(A)(4)(5)(6), INCLUDING BUT NOT LIMITED TO CBA 0.1, PREAMBLE, 0.4.1 RECOGNITION, 2.1.4 SALARY PROVISIONS, 39.1 NON-DISCRIMINATION).**  
 Ms. Kountz appeared on behalf of the City and Patricia French appeared on behalf of AFSCME. Chairman Baca scheduled this matter for merits hearing on March 13, 2020.
- **LB 16-25, PROHIBITED PRACTICE COMPLAINT BY AFSCME LOCAL 3022 ON BEHALF OF BILL MARTINEZ AGAINST THE CITY OF ALBUQUERQUE TRANSIT DEPARTMENT FOR CONSTANT HARASSMENT AND RETALIATION AGAINST MR. MARQUEZ.**  
 Ms. Kountz appeared on behalf of the City and stated that this matter has been settled and parties are working on closing documents. Chairman Baca rescheduled this matter for status conference on March 9, 2020.
- **LB 16-27, STEP III GRIEVANCE FILED BY AFSCME LOCAL 2962 ON BEHALF OF TELECOMMUNICATOR EMPLOYEE JOHNATHAN MARCHBANKS AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR A 32 HOUR UNPAID SUSPENSION GIVEN TO MR. MARCHBANKS.** Mr. Pennington appeared on behalf of the City and stated that this matter has been settled and pending closing documents. Chairman Baca rescheduled this matter for status conference on March 9, 2020.
- **LB 16-35, STEP III GRIEVANCE FILED BY AFSCME LOCAL 1888 ON BEHALF OF DMD SECURITY OFFICERS AGAINST THE CITY OF ALBUQUERQUE DEPARTMENT OF MUNICIPAL DEVELOPMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT-OVERTIME (2.3 THROUGH 2.3.13).** Ms. Kountz appeared on behalf of the City and handed the Board an Order on City's Motion for Summary Judgment and the Order was approved and signed by the Board.
- **LB 19-36, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 AGAINST THE CITY OF ALBUQUERQUE AND CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR VIOLATING THE LMRO 3-2-7; 3-2-9(A)(4) AND (6) AND THE CBA 13.1; 20.2 AND 24.**

Ms. Moody appeared on behalf of the City and Ms. French appeared on behalf of AFSCME. Ms. French stated that the parties have settled this matter and closing documents are pending. Chairman Baca rescheduled this matter for status conference on March 9, 2020.

- **RESCHEDULED FROM NOVEMBER 22, 2019-LB 19-39, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 624 AGAINST THE CITY OF ALBUQUERQUE MUNICIPAL DEVELOPMENT DEPARTMENT FOR FAILING TO NEGOTIATE WITH THE UNION THE CHANGE OF EMPLOYEES HOURS LMRO 3-2-9(A)(4). (ROCKY GUTIERREZ, AFSCME 624)** Ms. Moody appeared on behalf of the City and Mr. Gutierrez appeared on behalf of AFSCME and stated that the Union withdraws the case. Chairman Baca rescheduled this matter for status conference on March 9, 2020.

**VIII. NEW BUSINESS AND ENTERING OF SCHEDULING ORDERS:**

- **LB 19-42, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF ALBERTO ROBLES AGAINST THE CITY OF ALBUQUERQUE AND CITY OF ALBUQUERQUE AVIATION DEPARTMENT FOR LMRO 3-2-9A6 AND CBA 24. INVESTIGATIONS & DISCIPLINE.**

Ms. Kountz appeared on behalf of the City and handed to the Board a Scheduling Order prepared by the parties. Chairman Baca scheduled this matter for merits hearing on May 4, 2020.

- **LB 19-43, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 ON BEHALF OF ALTHEA GAISTHEA AGAINST THE CITY OF ALBUQUERQUE AND CITY OF ALBUQUERQUE AVIATION DEPARTMENT FOR LMRO 3-2-9A6 AND CBA 24. INVESTIGATIONS & DISCIPLINE.**

Ms. Kountz appeared on behalf of the City and handed to the Board a Scheduling Order prepared by the parties. Chairman Baca scheduled this matter for merits hearing on May 4, 2020.

**IX. THE BOARD WILL VOTE TO ENTER INTO CLOSED EXECUTIVE SESSION PURSUANT TO SECTION 10.15.1.H.3 OF THE OPEN MEETINGS ACT TO DELIBERATE FOR LB 16-20.** Ms. Kountz appeared on behalf of the City and Attorney James Montalbano appeared on behalf of AFSCME. Former Board member Ryan Harrigan was also present for the Board deliberation.

Mr. Montoya 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 passed 3-0.

Mr. Montoya 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 16-20 and no other matters were discussed.

Chairman Baa moved to find in favor of petitioners and award them the pay increases outlined for the time period set forth in testimony and findings. Mr. Montoya seconded. Voted and passed 3-0.

**X. MERITS HEARING:**

- **LB 17-07, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 3022 AGAINST THE CITY OF ALBUQUERQUE FOR UNILATERALLY CHANGING TERMS AND CONDITIONS ELIMINATED THE SHIFT DIFFERENTIAL PAY WITHOUT NEGOTIATING WITH THE UNION AND REQUIRING EMPLOYEES TO BACK PAY ANY SHIFT DIFFERENTIAL PAY THEY RECEIVED.** Melissa Kountz, Assistant City Attorney appeared on behalf of the City and stated that the parties have settled this matter and will not proceed with the merits hearing.
- **LB 19-16, PROHIBITED PRACTICE COMPLAINT FILED BY AFSCME LOCAL 2962 AGAINST THE CITY OF ALBUQUERQUE POLICE DEPARTMENT FOR VIOLATIONS OF THE LMRO AND THE COLLECTIVE BARGAINING UNIT 7.1.3 AND 7.2.1.**  
See item VI.

**XI. ADJOURNMENT.**

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

**APPROVED:**

---

**TED BACA, CHAIR**  
**City Labor Management Relations Board**

---

**DATE**

cc: Tim Keller, Mayor  
Ethan Watson, Interim City Clerk