



**STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

Minutes of Board Meeting held Tuesday, September 12, 2017 9:30 a.m. at the PELRB offices, 2929 Coors Blvd. NW, Albuquerque, New Mexico; Duff Westbrook, presiding.

1. **Call to Order.** Chair Westbrook called the meeting to order at 9:30 a.m. Vice-Chair Bartosiewicz and Member Bledsoe were also present.
2. **Approval of Agenda.** Member Bledsoe moved to approve the agenda. Vice-Chair Bartosiewicz seconded the motion and the agenda was approved 3-0 after a roll call vote.
3. **Approval of August 1, 2017 meeting minutes.** Member Bledsoe moved to approve the minutes of the Board's April meeting. Vice-Chair Bartosiewicz seconded the motion and upon a 3-0 roll call vote the minutes were approved without modification.
4. **Public Comments.** There were no public comments.
5. **Voluntary Dismissal and Amendment of Certification.** *Santa Fe Community College-AAUP v. Santa Fe Community College*, PELRB No. 114-17 and *Santa Fe Community College-AAUP v. Santa Fe Community College*, PELRB No. 311-16.

Chair Westbrook explained that a resolution to the PPC and an agreement as to the composition of the unit, had been reached between the parties. Present for the parties were Lynn Mostoller and James Montalbano for the College and the Union, respectively. Counsel for the parties affirmed Chair Westbrook's assertion that an agreement had been made which would dispose of both of the matters before them. No Action was necessary.

6. **Review of letter decisions**

- a. *NMCPSO v. Santa Fe County*, PELRB No. 118-17; Union's appeal of Director's Dismissal. Present for the parties were Adrian Terry and Leslie Schaar, for the Union and the County, respectively. Mr. Terry began by arguing that the Director had erred in ruling that the dismissed claims were not subject to bargaining. It was Mr. Terry's assertion that correct application of the SOPs was in fact subject to bargaining and that Director Griego's decision regarding those issues be reversed and remanded back to him for further processing. Ms. Schaar countered that the Union's appeal was not yet ripe because there were remaining issues to be litigated at a future Merits Hearing and, that according to the PELRB Rules, an appeal of the Director's decision can only be made after the decision arising from the Merits Hearing. Since the Merits Hearing had not yet been held and a final decision not yet rendered, the Union's appeal was premature and should be denied.

Chair Westbrook moved that the Board go into executive session pursuant to NMSA 10-15-1(H)3 of the Open Meetings Act, to discuss *NMCP SO v. Santa Fe County* PELRB 118-17. Vice-Chair Bartosiewicz seconded and the motion was approved 3-0 after a roll call vote. The Board went into executive session at 9:59.

Chair Westbrook moved that the Board go back into regular session pursuant to NMSA 10-15-(I)1 and 10-15(J) of the Open Meetings Act, and that the only matter discussed in the closed session was *NMCP SO v. Santa Fe County* PELRB 118-17. Member Bledsoe seconded and the motion was approved 3-0 after a roll call vote. The Board went back into regular session at 10:05.

Chair Westbrook noted that the Director had dismissed the Union's claims for facial inadequacy. Pursuant to our rules, for any claim that is facially inadequate, the claiming party shall have 5 days to remedy that inadequacy. This provision was absent from the Director's dismissal. Chair Westbrook moved to give NMCP SO five days from today's date to amend their petition. Member Bledsoe seconded and the motion was approved 3-0 after a roll call vote.

- b. *AFSCME, Local 3973 and Gilbert Martinez v. NMDOH*; PELRB No. 116-17; Director's Dismissal for failure to amend.
Neither party had a representative present nor was there any action to be taken by the Board.

7. **Voluntary Dismissal.** *AFSCME, Council 18 v. City of Santa Fe*, PELRB No. 110-17.
AFSCME's representative, James Montalbano, confirmed to the Board that AFSCME had withdrawn the matter. There was no action to be taken by the Board.

8. **Appeals of Hearing Officer's Report and Recommended Decision.** *AFSCME, Council 18 v. NM Dep't of Workforce Solutions*; PELRB No. 102-17; both parties' appeals.

Present for NMDWS and AFSCME, were Robert "Dale" Morrison and James Montalbano respectively. Mr. Morrison began and contended that the Board should dismiss the remaining claims. He went on to argue NMDWS is not the proper party for this action, that there was a lack of evidence to support the findings in the decision, that the decision violates the parties' CBA by encroaching on the power afforded to the employer in the CBA, that the Board does not have proper jurisdiction and that NMDWS was denied due process when the Director limited the scope of their requested discovery.

Mr. Montalbano argued that the decision by the Director conflated two separate and important issues which need to be heard, treated and argued separately, and he requested that the Board reverse that portion of the decision that grants a directed verdict regarding the reclassification of LLA's and the failure to grant wage adjustments

Chair Westbrook moved that the Board go into executive session pursuant to NMSA 10-15-1(H)3 of the Open Meetings Act, to discuss *AFSCME, Council 18 v. NM Dep't of Workforce Solutions*; PELRB No. 102-17. Member Bledsoe seconded and the motion was approved 3-0 after a roll call vote. The Board went into executive session at 11:44.

Chair Westbrook moved that the Board go back into regular session pursuant to NMSA 10-15-(I)1 and 10-15(J) of the Open Meetings Act, and that the only matter discussed in the closed session was *AFSCME, Council 18 v. NM Dep't of Workforce Solutions*; PELRB No. 102-17. Vice-Chair Bartosiewicz seconded and the motion was approved 3-0 after a roll call vote. The Board went back into regular session at 11:50.

Chair Westbrook moved to adopt the Hearing Officer's Report and Recommended Decision in its' entirety. Vice-Chair Bartosiewicz seconded and the motion was approved 3-0 after a roll call vote.

9. Director's Reports

a. FY19 Appropriations Request.

Operations Manager, Matthew Abousleman reported to the Board that the Agency had submitted an FY19 Appropriations Request and that it followed DFA's instructions to maintain a flat budget. The Agency submitted a flat budget relative to minimum funding requirements established prior to the State's imposition of mandatory austerity measures.

b. FY17 Audit Contract Report.

Mr. Abousleman reported that the Agency had received an executed and approved contract from DFA and is expecting to begin fieldwork in the first week in October.

10. Set Next Meeting Date and Adjournment. The Board set Tuesday November 7, at 9:30 a.m. for their next meeting. Chair Westbrook moved to adjourn. Member Bledsoe seconded the motion and it was approved 3-0 after a roll call vote. The meeting was adjourned at 11:58 a.m.