



**STATE OF NEW MEXICO**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**  
**Minutes of Board Meeting held Tuesday, February 9, 2021**  
**at 9:00 a.m. via web conference. Marianne Bowers, presiding.**

1. **Call to Order.** Chair Marianne Bowers called the meeting to order at 9:00 a.m. Members Mark Myers and Nan Nash were also present, so that a quorum was established.
2. **Approval of Agenda.** Member Nash moved to approve the agenda. Vice-Chair Myers seconded the motion, and the agenda was unanimously approved upon a roll call vote.
3. **Approval of January 16, 2021 Meeting Minutes.** The Chair moved to approve the January 16, 2021 meeting minutes. Member Nash seconded the motion and the motion carried unanimously by roll call vote.
4. **Public Comments.** The Chair invited public comment. No one requested to make comments.
5. **Open Meetings Act Resolution.** The Board members had no comments about the OMA for year 2021. Vice-Chair Myers moved for approval of the resolution; Member Nash seconded the motion and the motion carried unanimously by roll call vote.
6. **Voluntary Dismissal - CWA v. N.M. Dep't. of Cultural Affairs & N.M. Dep't of Health; PELRB 123-20.** The Executive Director was called upon to introduce the agenda item and after a brief procedural history he told the Board that there was no Board action required because the complaint was withdrawn prior to the hearing on the merits. The matter was on the agenda for the Board's information. Chair Bowers instructed the Director to proceed with closing the case.
7. **Hearing Officer's Reports and Recommended Decision - In re: AFSCME, Council 18 v. N.M. Children, Youth and Families Dep't, PELRB No. 110-20.** Executive Director Griego was called upon to introduce the agenda item and after a brief procedural history he told the Board that that there was no Board action required because there was no request for review filed. Because his decision required removal of the discipline at issue and posting notice of the violation, all that is left to do is monitor compliance with those requirements before closing the case.
8. **Objections to the PELRB'S Recommendations and Order; In Re: County of Los Alamos, Labor Management Relations Board; PELRB 213-20.** Chair Bowers called upon the County's counsel, Ms. Katie Thwaites, to present her argument and asked her whether the objections were moot because the County had a hearing after the objections were filed. Ms. Thwaites asserted the matter was not moot because there are still some procedural issues remaining, and the Board has no authority to review certain aspects of the Los Alamos ordinance. Ms. Thwaites requested that the Board withdraw its January 15, 2021 Order and amend the minutes, because the Order does not accurately reflect the Board's action taken at its meeting on January 6, 2021 in PELRB 213-20 and issue an Order that accurately reflects its action or in the alternative issue an amended order. Chair Bowers moved for dismissal of the objections as moot. There was no discussion of the motion. Member Nash seconded the motion and the motion carried unanimously by roll call vote.

9. **Requests for Leave to Submit Local Ordinances After the Statutory Deadline.**

- a. *City of Gallup Labor Management Relations Board*; PELRB 201-21. Mr. Alfred Abeita, Acting Human Resources Director for the City of Gallup asked the Board to consider accepting the late submission of its application. Chair Bowers noted that she did not believe the Board has discretion to waive the statutory deadline in the PEBA. Vice-Chair Myers agreed, as did Member Nash. The Chair moved to deny the request for leave; Vice-Chair Myers seconded the motion and the motion carried unanimously by roll call vote.
- b. *Luna County Labor Management Relations Board*; PELRB 202-21. Mr. Charles Kretec, Luna County Attorney, requested relief based on the Board's rules NMAC 11.21.1.9 and NMAC 11.21.5.12 and 11.21.5.12. Chair Bowers asked for comment or questions from the Board; none were received. Chair Bowers moved to deny the request for late submission of Luna County's Labor-Management relations Ordinance. Member Nash seconded the Motion and it carried 3-0 after a roll call vote.
- c. *Chaves County Labor Management Relations Board*; PELRB 203-21. No one from Chavez County was present to address the request. Chair Bowers moved to deny the request for late submission of Chaves County's Labor-Management Relations Ordinance. Vice-Chair Myers seconded the Motion and it carried 3-0 after a roll call vote.

10. **Review of Local Ordinances submitted under NMSA § 10-7E-10.**

- a. *In re: Central New Mexico Community College*; PELRB 206-20. Based on staff recommendations Chair Bowers moved to approve the CNM Labor-Management Relations Resolution. The motion received a second from Vice-Chair Myers and the motion passed 3-0 upon a roll call vote.
- b. *In re: Doña Ana County*; PELRB 207-20. Based on staff recommendations Chair Bowers moved to approve the Doña Ana County Labor-Management Relations Ordinance. Member Nash seconded the motion and the motion carried 3-0 upon a roll call vote.
- c. *In re: Alamogordo Schools*; PELRB 208-20. Based on staff recommendations Chair Bowers moved to approve the application for Alamogordo Schools Labor-Management Relations Resolution. The motion was seconded by member Nash and the motion passed 3-0 upon a roll call vote.
- d. *In re: Silver City*; PELRB 209-20. Chair Bowers moved to find that the currently enacted Ordinance No. 1297 does not meet the requirements of § 10, but to grant conditional approval provided the LMRO is enacted as stated in the Notice of Intent submitted January 28, 2021, without changes, prior to June 30, 2021. If a conforming ordinance is not passed by that deadline the Silver City board will cease to exist as required by § 10 of the Act. Chair Bowers requested comment from any interested parties but no one asked to discuss the motion. After asking the other Board members for comment Member Nash seconded the motion but asked whether it was inherent in the motion that the Town would submit a revised ordinance to the Director for review and suggested that such a requirement be added to any Order resulting from the motion. Chair acknowledged the amendment and incorporated it into her original motion.

Member Nash seconded the amended motion. The motion carried upon a 3-0 roll call vote.

- e. *In re: City of Roswell*; PELRB 211-20. Chair Bowers moved to approve the application submitted by the City of Roswell. Member Nash seconded the amended motion and the motion carried upon a 3-0 roll call vote.
- f. *In re: City of Hobbs*; PELRB 212-20. Chair Bowers moved to approve the application submitted by the City of Hobbs. Member Nash seconded the amended motion and the motion carried upon a 3-0 roll call vote.
- g. *In re: Los Alamos County*; PELRB 213-20. Chair Bowers moved to find that the currently enacted County LMRO as submitted does not meet the requirements of § 10 but to grant conditional approval provided the changes outlined in the staff memorandum are made to the ordinance. The Chair requested comment on the motion from interested parties. A discussion with the County's counsel, Katie Thwait's ensued regarding the staff memorandum verbiage. Ms. Thwait's requested clarification as to what changes are expected to be made under the Chair's motion and in response to a question by the Chair acknowledged that the County agrees to make five recommended changes to its ordinance. Chair Bowers stated that she was unable to see where any dispute exists. Ms. Thwait's responded that the dispute was whether the statement in the staff recommendation to the effect that the County was unable to commit to making changes was accurate and regarding the last two recommendation in the staff memorandum, sections 30-46(I) and 30-47. There were no further comments from interested parties. When called upon for Board discussion of the Chair's motion, Vice-Chair Myers stated that he agreed with the conditional approval as stated. Member Nash commented that objections to the way Mr. Griego states things in the staff memorandum does not relate to the motion but considering Ms. Thwait's confusion over what changes are required in sections 30-46(I) and 30-47, the County should be given clear direction regarding the changes to be made. Ms. Thwait's acknowledged that her confusion is limited to those two sections. At the request of Chair Bowers, Director Griego clarified that no change section 30-46(I) is requested in the staff memorandum and, as stated in that memorandum, the County has agreed to remove a redundant second reference to "exclusive representative" section 30-47 so the section will read: "During the negotiation and the impasse procedure the employees, the exclusive representative or any of its employees are prohibited from communicating or negotiating issues which are the subject of negotiations with anyone other than the appointed county negotiating team." Chair Bowers asked for a second of her motion for conditional approval. Vice-Chair Myers and the motion passed 3-0 upon a roll call vote. Director Griego asked whether the Order resulting from the Chair's motion should include language similar to that required *in re: Silver City* whereby the town was required to submit its revised ordinance to the Director for review within a certain timeframe. On the advice of legal counsel for the Board, Chair Bowers reasserted the motion for conditional approval adding the requirement that county submit the amended ordinance as soon as possible

after enactment by the County but in no event no later than June 30, 2021. The amended motion was seconded by Vice Chair Myers. The amended Motion passed 3-0 on a roll call vote.

- h. *In re: Aztec Schools*; PELRB 215-20. Chair Bowers moved for approval of the Aztec Schools Labor-Management Relations Resolution. The motion received a second by Vice-Chair Myers and the motion was unanimously approved upon a roll call vote. (Please refer to the discussion of *In re: Aztec Schools* in the following statement of *In re: City of Raton* below.)
- i. *In re: City of Raton*; PELRB 217-20. Chair Bowers moved approval of the City of Raton Labor-Management Relations Ordinance. Attorney for NEA-New Mexico, Autumn Bergh requested permission to address the prior agenda item, *In re: Aztec Schools* because her request to be recognized under that agenda was not seen by the Chair. Because a scheduled hearing on the local board composition in PELRB 215-20 was vacated by the Director, the union did not have an opportunity to raise questions about whether Aztec Schools had an existing local board at the time of its application, despite having no vacancies exceeding sixty days (due only to the office hold-over provision of the State Constitution) because the local board had not met in more than eight years to conduct business. Executive Director Griego was not sure whether Ms. Bergh had notice that the hearing had been vacated but addressed the argument itself stating that for purposes of this approval process, staff intentionally limited its examination of local board existence to the question whether there were vacancies exceeding 60 days during the time preceding filing of the application. Other issues such as whether the board was meeting to conduct business was not material to that limited inquiry. The Board members had no further comment. Ms. Bergh referred to a case discussing the holdover provision of the state constitution for future reference. Chair Bowers stated that she did not hear anything in the objection that would change the prior approval *In re: Aztec Schools*. Vice Chair Myers and Member Nash agreed. Director Griego commented that local unions that do not wish to continue operating under a local ordinance or resolution have an opportunity later in the process set forth in § 10 to obtain the sort of relief sought by Ms. Bergh.

Returning to the City of Raton's application, as a precaution the Chair once again moved to approve its application. The motion was seconded by member Nash. The motion was unanimously approved on a roll call vote.

- j. *In re: City of Las Cruces*; PELRB 218-20. Chair Bowers moved the Board to find that the currently enacted Las Cruces Municipal Code Chapter 15 does not meet the requirements of § 10, but that it grant conditional approval provided the amended Las Cruces Municipal Code Chapter 15, is enacted as submitted to the PELRB January 26, 2021 without modification on February 16, 2021. If a conforming ordinance is not passed by that date the Las Cruces board will have until June 30, 2021 to enact a conforming ordinance or its board will cease to exist as required by § 10. There were no

comments by interested parties. Mr. Griego asked whether the motion should be amended to include language similar to that required *in re: Silver City* whereby the town was required to submit its revised ordinance to the Director for review within a certain timeframe. Chair Bowers amended her motion accordingly and Vice-Chair Myers seconded the motion. By a roll call vote of 3-0 the Board passed the amended motion for conditional approval.

- k. *In re: Zuni Public Schools*; PELRB 219-20. Chair Bowers moved to approve the application submitted by the Zuni Schools. Member Nash seconded the motion and the motion passed 3-0 upon a roll call vote.
- l. *In re: City of Albuquerque*; PELRB 220-20. Chair Bowers moved that the Board find the City's LMRO does not meet the requirements of § 10 and that the City has until June 30, 2021 to cure any defects. The Chairs requested comments from counsel for the City of Albuquerque. Ms. Melissa Kountz addressed a number of "perceived defects" as appears in the staff memorandum and with which it disagreed. Ms. Kountz acknowledged that it intends to make several changes to its proposed ordinance. Stephen Curtice addressed the Board on behalf of the AFSCME unions representing employees of the City stating that AFSCME supports Albuquerque retaining its local ordinance and local board and will work with the City to enact any necessary changes to its ordinance. He did take issue with the City's position concerning the definition of "supervisor" in the LMRO as restricting those who may seek bargaining rights. A conforming definition needs to be in the LMRO because, although a local board may resort to state law to resolve an issue of bargaining unit composition, its first recourse is to the LMRO itself. Second, Mr. Curtice opined that the 30-day limitations period for filing a PPC found in the proposed ordinance is not a mere procedural difference but restricts the substantive right of what claims may be heard when compared with the 6-month limitation period established by Board rule. Chair Bowers asked Mr. Curtice how confident he is that the problems noted in the staff recommendations can be resolved. Mr. Curtice commented on the cooperative atmosphere that existed in amending the LMRO thus far and predicted that the staff objections can be cured. Chair Bowers asked whether following the Board's model template would be acceptable. Ms. Kountz said that the City had used the model ordinance template as guidance seeking to retain as much of the ordinance as possible but has already begun work on further revisions using the model ordinance template as "heavy guidance" retaining the City's provisions regarding the Guidance Committee and consistency with the budget ordinance, with which staff had no objections. Member Nash asked if the Board should require an interim report on progress amending the ordinance before the June 30, 2021 deadline. Ms. Kountz agreed that an interim report would be a good idea and further requested some sort of statement from this Board that the current Albuquerque Labor-Management Relations Board would continue in operation pending further amendment of its LMRO. Mr. Myers agreed that placing status report on the Board's May agenda was a good idea. He stated that all labor entities in the City should be included in the

process and Ms. Kountz assured him that they were actively involved. Mr. Griego informed the Board that both IAFF and APOA participated in the hearing on January 27. Chair Bowers asked the Board's legal counsel, Ms. Lori Chavez, for guidance on the question of whether the City's local board may continue to operate pending the amendment process. She asked Mr. Griego for his opinion. Mr. Griego that his reading of § 10 is that existing local boards may continue under existing ordinances or resolution until this Board approves another or, failing to do so, until June 30, 2021. Ms. Chavez agreed with that assessment. Chair Bowers considered counsel's construction of the Act to be "reasonable". She then moved to amend her motion to add that the parties work together to cure defects and report back to the Board at its May meeting. Director Griego suggested that the amendment be further amended to state "no later than" the May meeting. There were no further discussion. The Motion as amended was seconded by Member Nash. The motion passed unanimously upon a roll call vote.

11. **Director's Report re: HAFC subcommittee meeting.** Executive Director Griego reported that at the House Appropriations subcommittee meeting on January 27, 2021, both the Executive and LFC budget recommendations brought back into the agency's budget, the approximately \$11,000.00 needed to negotiate terms for renewal of the PELRB's lease agreement. The subcommittee accepted the LFC recommendation, which was only \$400 less than the Executive budget recommendation.
12. **Set Next Meeting Date and Adjournment.** After calling this agenda item Mr. Griego reminded the Board that Member Nash previously asked whether the Board might schedule all of its meetings for the remainder of the year. After discussion, referring to the Board's and its individual members' calendars and considering complications with holding a meeting on September 7, 2021, staff was directed to schedule meetings for the first Tuesday of each month for the remainder of the calendar year except September 7, 2021. Instead, the September meeting would be scheduled for September 14, 2021. Vice-Chair Myers moved to adjourn; member Nash seconded the motion and the motion carried unanimously by roll call vote at 10:40 a.m.