



LOS ANGELES CITY EMPLOYEE RELATIONS BOARD

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R. Douglas Collins
Chairman
Anthony Miller
Vice Chairman
Christopher Ruiz Cameron
Rosalinda Lugo
Rhonda L Hilyer
Robert R. Bergeson
Executive Director

MINUTES OF MEETING AMENDED

Monday, June 23, 2014

9:30 A.M.

BOARD MEMBERS PRESENT: **R. Douglas Collins, Chairman**
Anthony Miller, Vice Chairman
Christopher Ruiz Cameron
Rosalinda Lugo
Rhonda L. Hilyer

Chairman Collins called the meeting to order at 9:30 a.m.

All Board members were present.

1. Consideration of minutes of the Board meeting of May 19, 2014.

Member Cameron moved to approve the minutes of May 19, 2014. Seconded by Member Hilyer. Motion carried unanimously.

2. Executive Director's report:

a) New unfair employee relations practice claims filed.

Executive Director Bergeson informed the Board that since its May meeting 11 new unfair employee relations practice claims had been received, substantively four: UERP 1952, filed by individual employee Michael Piatt against the Department of Public Works alleging interference with protected conduct (has been processed); seven UERPs filed by the members of the Coalition of City Unions, UERPs 1953-1960 against the City of L.A. alleging failure to meet and confer in good faith over a successor MOU (have been processed); UERP 1961, filed by AFSCME, Local 3090 against the Department of Recreation and Parks alleging interference with protected conduct (has been processed); and UERP 1962, filed by AFSCME Local 3090 against Los Angeles World Airports alleging an unlawful unilateral change (has been processed).



b) Status of impasses.

Executive Director Bergeson advised the Board that there were no new requests for imposition of impasse procedures.

c) Administrative matters, if any.

Mr. Bergeson advised the Board that via an opinion rendered by the Office of the City Attorney, UERPs 1934-1941 involving the appointment process of ERB members have been submitted to the Board of Referred Powers.

3. Consideration of requests to withdraw various matters, if any.

Executive Director Bergeson stated that the Board had received one request for withdrawal. He recommended that the Board approve the request of UFLAC, Local 112 to withdraw UERP 1919 filed against LAFD.

Member Cameron moved to approve. Seconded by Member Miller.

Motion carried unanimously.

4. Consideration of the Personnel Department report on Petition C858 filed by Airport Police Command Officers Association of Los Angeles seeking the accretion of Chief Airport Safety Officer to the Management Peace Officers Unit, continued from the Board meeting of April 28, 2014 to allow for the parties to engage in mediation.

The following individuals were present on this matter: President Greg Staar, on behalf of Airport Police Command Officers Association of Los Angeles (APCOALA); Sr. Personnel Analyst Racheal Walker, Los Angeles World Airports (LAWA) Employee Relations Manager D'Ann McCoy-Snearl, and CAO Sr. Labor Relations Specialist Paul Girard, on behalf of LAWA.

Mr. Staar stated that the parties attempted to resolve the issue but were unable to reach an agreement and he referenced a previously submitted letter of proposed stipulated facts. Mr. Staar stated the association attempted to resolve the matter based on Government Code 3508 which states, "a peace officer is entitled to exclusive representation by a peace officer bargaining unit." He asserted there is no factual basis for management's contention that they rely on the incumbent Chief Airport Safety Officer for his expertise in confidential information. Mr. Staar requested that on those bases the Board accrete the class into the APCOALA's bargaining unit.

Ms. McCoy-Snearl stipulated to the association's facts one and two, but said number three is only partially correct and number five is not factually correct.

Mr. Girard responded on proposed stipulated fact number four that the department has not relied on the present Chief Airport Safety Officer because due to a personnel issue he has not been available. However, said Mr. Girard the incumbent holding the position has been relied upon in the past.

During the discussion Chairman Collins stated that disputes of this nature are uniquely a Meyers-Milias-Brown Act (MMB) problem because MMB is the only collective bargaining law that grants full collective bargaining rights to management employees. He added that where the Board has been asked to create management units within the uniformed ranks, it has separated management from top management. Chairman Collins then suggested that this matter go to hearing to flesh out the facts of the case and make a recommended determination.

After further discussion Member Lugo moved to send the case to hearing. Seconded by Member Miller.

Motion carried unanimously.

5. Consideration of draft interim order regarding timeliness of UERPs 1898-1904 filed by the Coalition of L.A. City of Unions against the City of Los Angeles (creation of LACERs Tier II).

The following individuals were present on this matter: Attorney Ellen Greenstone, on behalf of the Coalition of L.A. City Unions; Deputy City Attorney Jennifer Handzlik, on behalf of the City of Los Angeles.

Deputy City Attorney Handzlik referred to a transcript of the Board's May 19, 2014 meeting and, based on the transcript in comparison to the contents of the draft order, expressed that the city objected to certain statements in the order as well as inaccuracies as to the rationale attributed to the three member majority who found the cases to have been timely filed. Reading the transcript, said Ms. Handzlik, Members Hilyer and Miller did not go as far as Member Cameron in basing their decision to overturn the hearing officer on a bright line rule where a unilateral change is imposed through legislation. Rather, they found under the Board's existing rule that the clock did not start to run until the Coalition had clear knowledge of the City's intent because of a wavering of its position was less than 90 days before filing. The draft order suggests the Board majority both found a wavering of the City's position and adopted a bright line rule.

Attorney Greenstone responded that the draft appears consistent with the motion but since she did not receive the transcript until Friday, she was unable to review it. Regarding the communication to the executive director from the City, Ms. Greenstone considers it an improper ex parte communication.

Executive Director Bergeson stated that he drafted the proposed order without benefit of the transcript. However, having read it, Member Cameron advocated for a bright line rule and Member Miller stated that although that might be proper, the Board need not go that far and Member Miller agreed with Member Hilyer that the touchstone in this case should be the wavering position of the city.

After lengthy discussion, Member Miller moved to direct the executive director re-draft the order. Seconded by Member Cameron.

Motion carried unanimously.

6. a) UERP 1930, filed by UFLAC, Local 112 against LAFD alleging an unlawful unilateral change to the past practice of how employees are compensated for needing to remain on duty until relief arrives, continued from the Board meeting of April 28, 2014.

Before the meeting, the parties requested of the executive director to continue this matter Mr. Bergeson said. Member Hilyer so moved. Seconded by Member Cameron.

Motion carried unanimously.

b) UERP 1947, filed by individual employee Myron Durand Jordan against SEIU, Local 721 alleging violation of the duty of fair representation.

The following individuals were present on this matter: Individual employee Myron Durand Jordan, on his own behalf; and Deputy General Counsel Najeeb Khoury, on behalf of SEIU, Local 721.

Mr. Jordan contended that the union was obligated but failed to represent him before the Civil Service Commission (CSC) after paying union dues for 20 years. He said that the union helped some other employees who temporarily lost their driver's license but refused to represent him in appealing termination of employment.

Attorney Khoury stated the union's position that Mr. Jordan could have represented himself before the CSC it. The law is clear that unlike with arbitration, the union does not own the process so the duty of representation does not attach, he said. Secondly, said Mr. Khoury, Mr. Jordan would have to show that the union acted without rational basis and that is not the case. Contrary to Mr. Jordan, who was a refuse truck operator, possession of a driver's license was not essential to performance of the other employees jobs.

After some discussion Member Hilyer moved to dismiss UERP 1947. Seconded by Member Cameron.

Motion carried unanimously.

c) UERP 1949, filed by individual employee Nathan Jackson against SEIU, Local 721 alleging violation of the duty of fair representation.

Executive Director Bergeson informed the Board that Mr. Jackson requested to continue this matter and that the union was so notified. Counsel Lauren Hazarian was present on behalf of SEIU, Local 721 and expressed no opposition to the continuance request. Member Collins suggested the matter be continued and Member Cameron so moved. Seconded by Member Lugo.

Motion carried unanimously.

d) UERP 1950, filed by LA Airport Peace Officers Association against LA World Airports alleging failure to meet and confer in good faith over a successor MOU to that which expired in 2010.

The following individuals were present on this matter: Claimant did not appear; Deputy City Attorney Christina Checél, on behalf of LAWA.

Member Collins suggested this matter be continued and that the claimant be informed the matter will be dismissed for failure to prosecute if no appearance is made in July.

Noted for the record - Member Cameron recused himself on the following item

- e) **UERP 1951, filed by IBEW, Local 18 against LA Department of Water and Power alleging failure to meet and confer in good faith regarding the selection of management representatives to the Joint Training Institute (JSI) and Joint Safety Institute (JTI) boards of trustees.**

Mr. Bergeson stated that prior to the meeting the parties requested to continue this matter for one month. Member Miller so moved. Seconded by Member Hilyer.

Motion carried unanimously.

- 7. **Public comments on matters within the Board's jurisdiction. After action on routine and other matters, a maximum of ten minutes will be provided for members of the public to address the Board on items of interest to the public that are within the jurisdiction of the Board. Said ten minutes shall be equally divided among speakers, not to exceed five minutes for one speaker.**

There were no public comments.

Member Cameron moved to adjourn the meeting. Seconded by Member Lugo.

Motion carried unanimously.

MEETING ADJOURNED AT: 10:20 A.M.



ROBERT R. BERGESON
Executive Director

PERSONS WITH DISABILITIES: As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its program, services, and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to this meeting. For additional information, please contact Commission Executive Assistant Guadalupe N. Rodarte at (213) 473-9700.