



MINUTES
STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Nan Nash, Board Chair
Tuesday, March 7, 2023, 9:00 a.m.
Via videoconference

1. **Call to Order.** Chair Nan Nash called the meeting to order at 9:06 a.m. Member Mark Myers was also present, constituting a quorum.
2. **Approval of Agenda.** Member Myers moved to approve the agenda. The motion was seconded by Chair Nash and carried unanimously upon a roll call vote.
3. **Approval of February 7, 2023 Meeting Minutes.** Chair Nash moved to approve the February 7, 2023 Meeting Minutes. Member Myers seconded the motion and the motion passed unanimously upon a roll call vote.
4. **Public Comments.** James Montalbano addressed the Board regarding the procedural posture of the Summary Dismissal in Agenda item 7(a). The Chair stated the Board would hear his comments when they reached that point on the Agenda.
5. **Open Meetings Act Resolution.** The Executive Director stated that the current Resolution was not changed from the previous Resolution except for the dates and asked the Board to approve the proposed Resolution to comply with the Open Meetings Act. Chair Nash moved to approve the 2023-2024 Open Meetings Act Resolution. Member Myers seconded the motion and the motion passed unanimously upon a roll call vote.
6. **Voluntary Dismissals.** Two cases were discussed under this agenda item:
 - a. *UHPNM v. UNM-SRMC*; PELRB 119-22. The Executive Director informed the Board that the parties had reached a settlement in this case and he was awaiting A Withdrawal of the PPC, at which point he would issue a Voluntary Dismissal.
 - b. *UHPNM v. UNM-SRMC*; PELRB 122-22. The Executive Director informed the Board that the parties had reached a settlement in this case and he had issued a Voluntary Dismissal. No Board action was required on either case.
7. **Summary Dismissal.**
 - a. *AFSCME v. HSD & SPO*; PELRB 102-23. The Executive Director asked for and received leave to review the procedural posture of the Summary Dismissal based upon the statement made by James Montalbano as Public Comment, to ascertain if it was appropriate for the Board to proceed with this matter. Upon his return he informed the Board that NMAC 11.21.3.13 allows for an appeal of the Director's Dismissal to be filed *within* 10 days of service of the Dismissal and that deadline ends on today, so it depends on how the Board wishes to construe the phrase "within 10

days” whether it proceeds on the agenda item or not. James Montalbano, appearing for the Complainant, stated that a determination had not yet been made on whether or not to appeal, and he would like the full period to make that decision, even if that meant the Board’s determination would be postponed until the next meeting. Chair Nash invited a motion to table the Agenda item. Chair Myers moved to table the matter until the April meeting. The motion was seconded by Chair Nash and carried unanimously upon a roll call vote.

8. **Amended Certifications.** *State Personnel Office/ Public Education Dep’t. & CWA, Local 7076; PELRB 321-22.* The Executive Director reminded the Board that CWA and the State Personnel Office are in the process of clarifying the composition of all the state employee bargaining units represented by CWA, originally certified around 2004. This case is part of that ongoing effort. The Amended Certification before the Board was presented as the Director’s Report clarifying the unit required by NMAC 11.21.2.37. Before taking any action, the Chair announced that the Board would go into a closed executive session after hearing all agenda items requiring a closed session, rather than having a closed session after each item.

9. **Motion for Stay in *UHPNM v. UNM-SRMC; PELRB 111-22.*** The Chair asked the representatives of the parties to enter their appearances. Melissa Kountz appeared on behalf of UNM-SRMC and James Montalbano appeared on behalf of the Union. As the movant, Ms. Kountz addressed the Board first, followed by Mr. Montalbano. After hearing from counsel the Chair thanked them for their presentations and stated the Board would take up the matter in closed session. A summary of the Board’s action concerning this agenda item appears in that portion of these minutes below outlining its actions taken after returning from its closed session at 10:07 a.m.

10. **Director’s Reports.** The Executive Director reported on the FY24 Budget recommendations and summarized the status of agency’s budget request now pending before Senate Finance Committee. The Chair then announced that *SRMC v. United Health Professionals of New Mexico, AFT*; No. D-202-CV-2022-07805 (Respondent-Appellant’s Statement of Appellate Issues) and *Board of Education for the Gallup-McKinley County Schools v. McKinley County Federation of United School Employees Local 3313, AFT-NM and State of New Mexico Public Employee Labor Relations Board*; No. D-202-CV-2022-07617 would be discussed in closed Executive Session.

The Chair then moved that the Board go into executive session pursuant to section 10-15-1(H)(3) of the Open Meetings Act, to discuss item 9(a) and under 10-15-1(H)(7) to discuss items 10(b) and (c). Member Myers seconded the motion and the motion passed unanimously upon a roll call vote. The Board went into closed session at 9:33 a.m.

At 10:05 a.m. the Chair called the meeting back to order and moved that the Board go back into regular session. She announced that pursuant to sections 10-15-1(I)(l) and 10-15-1(J) of the Open Meetings Act, the only matters discussed in the closed executive session were agenda items 9(a) and 10(b) and (c). Member Myers seconded the motion and the motion passed unanimously upon a roll call vote. The Board returned to open session at 10:07 a.m.

Member Myers then moved to deny the Motion for Stay in PELRB 111-22. The Chair seconded the motion and the motion carried unanimously on a roll call vote.

8. **Adjournment.** The Chair thanked Assistant AG Herrera for his assistance as interim counsel for the Board and invited a motion to adjourn the meeting. Member Myers moved to adjourn. The Chair seconded the motion and the motion carried unanimously on a roll call vote. The time was 10:08 a.m.