

**SANDOVAL COUNTY LABOR MANAGEMENT RELATIONS BOARD
MEETING AGENDA
COMMISSION CHAMBERS
JULY 19, 2016 – 3:00 p.m.**

1. CALL TO ORDER

The meeting was called to order at 3:04 p.m. led by Frank Marquez

2. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was led by Frank Marquez

3. INTRODUCTIONS & ANNOUNCEMENT

Frank Marquez introduced Judge Ted Baca as the newest member of the Board; is retired Chief Judge for Bernalillo County; has a great career in law and we are privileged to have him join this Board. Ted Baca replied that he is happy to be here.

4. APPROVAL OF AGENDA

Frank Marquez requested a motion to be made on the Approval of the Agenda. Marilyn Hill made a motion for the approval of Agenda. Ted Baca seconded the motion. Motion passed.

5. APPROVAL OF MINUTES February 3, 2016 MEETING.

Frank Marquez asked for a motion for the approval of the minutes from the February 3, 2016 meeting. Marilyn Hill made a motion for the approval of the minutes from February 3, 2016. Frank Marquez seconded the motion. Motion passed. Frank Marquez asked that the record show the motion passed with two votes; Mr. Baca was not present at the February 3rd meeting.

6. ELECTION OF CHAIR

Frank Marquez nominated Judge Ted Baca as the chair. Marilyn Hill seconded the motion. Frank Marquez asked if there were any other nominations. No other nominations were presented. Motion passed.

7. PETITION FOR INITIAL CERTIFICATION OF A NEW BARGAINING UNIT AT DETENTION FOR AFSCME

Chair Baca stated they would now move on to the substantive reason the meeting was called and asked everyone to not make the same mistake he did, by turning off any cell phones so they would have no interruptions. He introduced the seventh item on the agenda, the Petition for Initial Certification of a New Bargaining Unit at Detention by AFSCME, and asked, "Who will be making this presentation?" Stephen Curtice introduced himself. Chair Baca asked, "Before you proceed, who else is going to address this? Is anybody else?" Dina Holcomb introduced

herself for Sandoval County and stated that she was there to represent the County and to answer any questions with regards to the procedure. Chair Baca then asked Mr. Stephen Curtis to proceed.

Mr. Curtice stated we filed this petition; it is for a unit that had previously been certified to NMCP SO. Pursuant to your rules, we served a copy of the petition on counsel for NMCP SO, I don't see anyone here. That election that certified that unit, to my understanding, was around two years ago; in any event, it was more than twelve months ago. There is not a current collective bargaining agreement between NMCP SO and the County, so the two potential bars to an election as contained in your ordinance and in your rules are not present. One bar is what we call the certification year bar, which would bar any election held within twelve months of another election for the same unit, and that election occurred more than twelve months ago. The second is what we refer to as the contract bar which typically bars any election during the pendency of the first three years of the collective bargaining agreement unless a petition is filed within a certain window of time, prior to the expiration of the third year. Neither of those bars would apply, so we would ask that the Board proceed to schedule the election. Mr. Curtice stated that as he understands your rules, and he thinks Dina (Ms. Holcomb) would advise you of this as well; one of the initial things the Board has to do is count the showing of interest that we provided along with the petition, against the list of employees provided by the County to determine whether or not we have met the 30% threshold in order to proceed with scheduling of an election. The showing of interest cards that we submitted were in a separate envelope; hopefully, it remained a sealed envelope, as it was only meant to be reviewed by this Board and not by the County itself for obvious reasons. Once you have satisfied yourself that the petition is adequate, and that the showing of interest is adequate, then I believe the next item would be to schedule the election. Dina and I can work out details regarding the potential consent election agreement because the County has not identified any issues as it relates to the proposed unit; meaning that sometimes the union will ask for a unit and the employer will contend that certain positions that were asked for were supervisory or managerial or confidential and should be excluded from the unit; or, that they may contend that the unit doesn't share a cohesive community of interest and should be modified in some way. I don't believe that the County is making either of those contentions here, so I think it is ready to proceed to an election.

Chair Baca asked Ms. Holcomb, Now theoretically, you do not know if there's been an adequate showing of interest, is that right? Ms. Holcomb stated, I do not know. Chair Baca stated so it's up to this Board to look at these cards. Mr. Curtice replied, absolutely. Chair Baca stated, and it has to represent the 30% of the unit that you are trying to certify. Mr. Curtice replied, correct. Ms. Holcomb has provided the list of the qualified, meaning they are off probation, correct? Ms. Holcomb replied, correct. I believe there are 60 names on that list. Chair Baca asked, 60? Ms. Holcomb replied yes. Mr. Curtice stated that's how I counted it. Chair Baca stated that as long as you agree we don't have to count it.

Ms. Holcomb stated that she wanted to make the Board aware that there is a current union and she had hoped that they would have come here today. It's New Mexico Coalition of Public Safety Officers. They currently represent this bargaining unit, but as Mr. Curtice mentioned, there's only two bars under the ordinance that prohibits another Union from coming in, and that's if an election has been held within the last 12 months, or if there is a collective bargaining agreement in effect. The election was more than a year ago; we've been negotiating and have been unable to reach an agreement yet, so typically there's not a collective bargaining agreement

in effect so they do, I believe, have the right to file a petition. I'd hoped that the Coalition would be here today to express their views on it because essentially, the County does not have a dog in this fight. We are just simply here to let the employees select whoever they choose to represent them, but to ensure that the process is followed. So I believe that under your rules under 2.4 you would need to ensure that the showing of interest, the names match up to the names on the list that we have provided; that is the same as the current bargaining unit that AFSCME is seeking to represent. So they are asking to represent the same folks that the Coalition currently represents. Chair Baca then asked Ms. Holcomb does the Coalition really represent and Ms. Holcomb replied yes, they do. They have been elected by the employees and they have not been de-certified. So that would mean if there is a sufficient showing of interest both names would be on the ballot, both the Coalition and AFSCME, and then the option of No Representation. Chair Baca stated, I don't know if that is a dispute that we have unravel. Mr. Curtice stated that he would have to check the rules again; the rules specify how one intervenes in a petition, so if this were a brand new unit that nobody represented, one union came in to ask to represent the unit, another union that had potential interest in the unit could petition to intervene pursuant to your rules. Chair Baca then asked, so they couldn't just show up and bootstrap onto your petition, right. Mr. Curtice replied that under 2.8 it says that anytime within 10 calendar days after the employer's posting of the notice of filing of a petition, which Dina (Ms. Holcomb) assures me has been accomplished; I don't know the date on which that was accomplished. Chair Baca asked if there is an agreement that 10 day filing has been met. Mr. Curtice replied, I don't know what day it was posted. Ms. Holcomb asked Patricia Miller, Director of Human Resources, who stated that they were posted on the 14th. Ms. Holcomb stated that the petition was received by the County on the 5th.

Mr. Curtice then stated that the County definitely posted. Chair Baca stated for the record that today is July 19. Mr. Curtice stated that he is not certain whether or not your rules would automatically put NMCP SO on the ballot if they did not comply with 2.8 (a) and (b), which requires that they themselves file a petition to intervene, accompanied by a 30% showing of interest. Chair Baca stated that fortunately we do not have to resolve that; they are not here, they are not seeking intervention, they are not seeking to be put on the ballot and we don't know what their intentions are. Dina Holcomb stated that we don't know that their intentions are. I take a different view that the union that is the incumbent bargaining unit are their automatic intervenors, so that maybe an issue for resolution between the parties. At this point the only thing before you is whether there is a 30% showing of interest, if each card is separately dated and if it's dated within nine (9) months of today's date.

Chair Baca stated that he has an envelope that was delivered to us just now, and inside of that envelope was another envelope that says confidential showing of interest and I assume that the cards are in here (Mr. Curtice replied yes) and it's sealed and the seal has not been broken. Chair Baca then stated I guess the thing to do now is to break the seal and open these up and look at them. Ms. Holcomb suggested that you either allow the County to step out or the Board go into Executive session because we should not know who has signed those cards, so there cannot be any claim of retaliation against the employees. Chair Baca asked how would you know and Ms. Holcomb replied as long as you did not read the names out aloud as you would be looking at the names on the list.

Frank Marquez made a motion to go into Executive session, Chair Baca and Marilyn Hill seconded the motion. Motion passed. Chair Baca stated that they were going into Executive Session to determine if a sufficient showing of interest has been met in order for us (the Board) to consider the Petition further. Chair Baca declared a recess to go into Executive session at 3:17 p.m.

The Board returned from executive session at 3:30 p.m. and Chair Baca called the meeting of the Labor Management Relations Board back into open session. In executive session members of the Board reviewed the cards demonstrating the showing of interest and we are able to conclude and announce that the 30% required showing of interest has been satisfied, so now I think we need to make a motion that we approve this petition, is that correct? Frank Marquez stated, so moved; Marilyn Hill seconded the motion. Chair Baca stated the motion is to approve the Petition for Initial Certification of a New Bargaining Unit and asked if there was any discussion? All in favor? Chair Baca stated, no opposed. Motion passed.

Chair Baca stated this petition has been granted; the next step I guess is to schedule the election as you've discussed. That is not the Board's responsibility, is it? If we can be of assistance we would be glad to do so. Mr. Curtice replied typically what happens is the employer and the union will meet to enter into an election agreement, which would specify the details of the election. If there had been issues regarding, for example, whether or not this person is a supervisor or not you would have to file the representation hearing in order to resolve that dispute. There being no dispute, most Boards follow the procedure of; if the parties can, they enter into what's called a consent election agreement specifying the dates and times of the elections, etc.; and that would require Board approval. Ms. Holcomb agreed that Mr. Curtice is correct, usually the parties work on a consent election agreement.

Dina Holcomb stated that Mr. David Griffith is here and he represents the New Mexico Collation of Public Safety Officers; and, we were discussing these issues while you (the Board) were in Executive Session. I believe that the Coalition was going to disclaim interest, which makes it a little bit easier for us and so perhaps we can have Mr. Griffith address that issue on the record. Chair Baca asked Mr. Griffith to state his name and representation for the record. Mr. Griffith began saying that he represents the New Mexico Coalition of Public Safety Officer; Chair Baca asked him what his name was; he replied David Griffith and stated they would like to disclaim any interests in this matter pending in front of you, as opposed to having our name on the ballot or anything of that nature; just go ahead and to let the election go forward. Chair Baca stated that we can assume you have the authority to come here and announce this; that your group is disclaiming any interests. Mr. Griffith replied yes sir, you may assume that; I am known by both Counsel present and by our appointee to the Board. Chair Baca then thanked Mr. Griffith for letting us (the Board) know that; it clears up some questions we had.

Ms. Holcomb advised the Board that now with the Coalition's disclaimer of interest in representing the bargaining unit, I believe that the County and AFSCME representative can work on a consent election agreement. The only thing needed is that we will come back before you all to present that to you and have your approval and sign off on it. It does require that we have an election supervisor; that can either be one of the Board members or it could be something else we agree to. I don't know if any of the Board members are interested in doing that, or if you would just like us to go ahead and find someone else to do that. Chair Baca said I guess if you guys can agree on somebody, as far as I am concerned whoever you guys agree

upon would be fine; if you can't reach an agreement, then you can ask us and either one of us will do it or we can pick somebody if you can't reach an agreement. Ms. Holcomb said thank you. Mr. Curtice asked how soon we can ask the Board to request to meet again. Ms. Holcomb replied that it would be up the Board; at your earliest convenience and I am sure that Stephen and I can work out the details within couple of weeks. Mr. Curtice stated there is a form that we typically use in these cases to schedule dates and time and locations and stuff like that. I think if you were to meet again in a week or two; (addressing Ms. Holcomb) you think we could get it done by then; Dina? Ms. Holcomb responded yes. Mr. Curtice continued and then if we are unable to, maybe we should schedule a meeting hoping that is simply for you to ratify the consent election agreement. If we are unable to agree on certain items, I believe then, pursuant to your regulations, the Board would have to issue an election order resolving any of the remaining items. Chair Baca asked are there any notice requirements, posting requirements or deadlines we would have to meet. Mr. Curtice replied in order to approve a consent election agreement, I think the only deadline was the scheduling of this meeting and the posting of the notice, which has already been accomplished. Ms. Holcomb replied that the only other notice under the rules, if we are unable to reach an agreement, then within 45 calendar days of the posting of the notice of the election, we would have to have a hearing on the bargaining unit, but we already have an agreement on the bargaining unit so that should not be an issue.

Curtice replied it will be built into the consent election agreement, but there will be a subsequent posting notice that will be required to have been accomplished prior to the election date, which is going to contain a sample ballot and the notice of election. That will be built into the consent election agreement itself, along with deadlines for the employers to provide a final employee eligibility list. In terms of deadlines for scheduling the next meeting, hopefully to approve the consent election agreement, the only one I would be aware of is anything pursuant to the Open Meetings Acts, where you have to provide I think, what is it, 24 hours' (Ms. Holcomb stated 72), 72 hours' notice of the meeting itself. Chair Baca stated that if schedule the meeting 2-3 or 4 weeks from now, I'm sure that 72 hours can be met. We also have to post the agenda so we would have to know if there is some dispute or if we are just going to come in to ratify your agreement. Mr. Curtice replied typically what he has seen on the agenda is something along the lines of the agenda item being ratification of the consent election agreement or failing agreement of issuance of an election order; and that way you have all the bases covered for the notice posting requirements. Chair Baca asked does that sound right? Ms. Holcomb replied, yes.

After discussion, Board members agreed to the date of Tuesday, August 2, 2016 at 3:00 p.m. Ms. Holcomb stated it would work for her. Mr. Curtice stated that someone from his office would be present. The Board asked Human Resources Director, Patricia Miller to see if the Commission Chambers were available.

Ms. Holcomb advised the Board that she did formally file the lists with Clerk's Office and asked do you want Ms. Miller to hold on to this for the Board or would one of you want to keep the official filing? It has the County Clerks stamp on it. Chair Baca responded that the list be kept with the Clerk's Office, but wanted to know who keeps the showing of interest. Mr. Curtice replied typically it is returned to the Union. Chair Baca stated that the record should reflect that he is returning the Unions confidential of interest cards to Mr. Curtice.

Ms. Miller returned with confirmation that the chambers were available on August 2nd and have been reserved.

8. OTHER BUSINESS

None

9. PUBLIC COMMENT

None

10. SCHEDULE NEXT MEETING

Chair Baca advised that was already done.

11. ADJOURN

Chair Baca entertained a motion to adjourn; Marilyn Hill so moved; Frank Marquez second. Motion passed. Meeting adjourned at 3:43 p.m.