

STATE OF NEVADA

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*Commissioner*

MARISU ROMUALDEZ ABELLAR  
*Executive Assistant*

DEPARTMENT OF BUSINESS AND INDUSTRY  
**LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD**

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May 13, 2016

**MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT  
EMPLOYEE-MANAGEMENT RELATIONS BOARD**

A meeting of the Local Government Employee-Management Relations Board, properly noticed and posted pursuant to the Nevada Open Meeting Law, was held on Tuesday, May 10, 2016, at the hour of 8:00 a.m., and continuing on Wednesday, May 11, 2016, at the Local Government Employee-Management Relations Board, 2501 E. Sahara Avenue, Room 203, Las Vegas, Nevada 89104.

The following Board members were present:

Philip E. Larson, Chairman  
Brent C. Eckersley, Esq., Vice-Chairman  
Sandra Masters, Board Member

Also present:

Bruce K. Snyder, Commissioner  
Marisu Romualdez Abellar, Board Secretary  
Greg Zunino, Attorney General's Office  
Rob Werbicky, Attorney General's Office  
Donald Bordelove, Attorney General's Office

Members of the Public Present:

Frank Flaherty, Esq., on behalf of ESEA  
Kristin L. Martin, Esq., on behalf of Teamsters 14  
Scott Greenberg, Esq., on behalf of CCSD

Al Ghilarducci  
Diane Striegel  
Lenny Rodriguez  
L.J. Davis  
Larry Lacovara  
Lamont Phipps  
Mary Dungan  
Patricia Lane  
Jarrod Skelton  
Anthony Freitas  
Ted Karant

Larry Griffith  
Kapi Sexton  
Carlos Pinto  
Lournette Person  
Guillermo Vasquez  
Renee Barrett  
Pat Murphy  
Dean Phinney  
Debra Ledow  
Lynn Griffith  
Jason Lammers

Lucero Rodriguez  
David Sowell  
Grant Davis  
Victoria Lozano-Fernandez  
Lenette Judie-Calhoun  
Jennifer Burrier  
Ana Gonzalez  
Tracy D. Rabb  
Debora Cole  
Amelia Moreno  
Frances Gargano  
Kelly Eskridge  
Frances Ixtlahuac  
Rob Manning  
Claudia Mendura  
Caimen Aquin

Lester Allen  
Kyle Eng  
C. Levrich  
Manual Valenvid  
Jan Giles  
Armando Galindo  
Cheryl Gorman  
Colleen Misciagna  
Rodney Carnes  
Roger Garcia  
Kim Bucy  
Rebecca Loman  
Ernie Ixtlahuac  
Patricia Kaiser  
Martha Morales  
(one name could not be deciphered)

The Agenda:

## PRELIMINARY MATTERS

**1. Call to Order**

The Board meeting was called to order by Philip E. Larson, Chairman, on Tuesday, May 10, 2016 at 8:00 a.m.

**2. Public Comment**

Public comment was offered relating to the election issue between the Education Support Employees Association and Teamsters, Local 14. The public comment is summarized as follows:

Mary Dungan stated she works in campus security and has been patiently playing by the rules but she is angry that despite Teamsters receiving the most votes that they cannot be the recognized bargaining agent. She requested that one last election be ordered as the support staff needs Teamsters. She further stated that they currently have a do-nothing association and that this has led to no raises in eight years. She finally requested that the election, if ordered, be open-ended.

Patrick Murphy stated he is a heavy truck driver and that ESEA refused to work his grievance because he is not a member. He also stated that if ESEA would have done its job that he would have stayed as a member. He further complained that he has not had a raise in years and therefore requests that the Board order another election.

Lournette Person stated she is a custodian and is frustrated by the court's ruling on the matter. She requested that another election be held but that more time is needed to vote. She finally stated that they have not had any raise for eight years.

Renee Barrett stated she speaks with a heavy heart as an 11-year employee who works as a registrar. She stated her work has doubled but yet she has not had a raise. She further claimed that about three-fourths of ESEA employees qualify for welfare because of their low wages.

Carlos Pinto stated that the support staff really wants Teamsters because they don't back down from management. He further stated the employees do not want ESEA because they have failed. He finally stated he wants a process to get Teamsters in.

David Sowell thanked the Board for listening to the employees. He stated he is a master plumber who is begging to let Teamsters in. He also stated they have been playing by the rules and that there should be another election with sufficient time to get the votes in. He further stated that ESEA is in cahoots with management and that unless the Board forces their hand nothing will change.

Diane Striegel stated she is there to support the students and others and thus requests that another election be held that is open-ended. She further stated that requiring a supermajority is ridiculous.

Frances Gargano stated that it is embarrassing to be here again. She also stated she used to be an ESEA board member but that it is now time to allow the support staff professional representation. She finally pleaded with the Board for another election as it is the last option.

Kelli Eskridge stated she is a bus driver. She also stated that ESEA only wants to represent the employees because they are a cash cow. She further stated that the employees only want a "piece of the pie" and thus requests that an open-ended election be held one more time.

Fran Ixtlahuac thanked the Board for its efforts and wanted them to know that the employees are angry. She also stated that freedom of choice is democratic but that this process has not been the case. She finally stated that there is a disconnect with ESEA.

Victoria Lozano-Fernandez expressed her heartfelt thanks to the Board as a 9-year employee. She stated she is frustrated by the recent court ruling and that the Board should schedule another election with more time allowed for voting and an open-ended deadline. She finally stated that ESEA was not fighting for the employees.

Kim Bucy stated that the election process is unfair and that it is not apathy, but fear at work, that is suppressing the vote, giving an example of how the employees in her work group were not allowed to talk about the election at work.

Armando Galindo stated he has been lied to for fifteen years by ESEA. He also stated his medical insurance premiums have gone up and that it is not right what CCSD has done to them. He further stated the employees need another election.

Rob Manning stated he is a twenty-five year employee and that ESEA is in cahoots with CCSD. He also stated the employees need Teamsters as a choice in that they need someone to represent the support staff.

L.J. Davis stated he is an eleven year employee who is looking for support. He requested an open-ended election be held. He also stated that the employees need to have their voices heard and wants fairness.

Ernie Ixtlahuac stated he is a bus driver and that in all three previous elections it is clear that the employees wanted Teamsters. He requested that the Board order another election with no timeframe for its completion.

Jan Giles stated she is here to support ESEA and that being attacked by Teamsters has not helped ESEA. She also stated that the real culprit is CCSD. She further stated that the process is hurting labor stability and that those don't vote will never vote.

Rebecca Loman stated she is a twenty-five year employee and that the will of the employees has been thwarted by ESEA all along the way. She also stated that ESEA equals non-representation and thus is asking for an open-ended election.

Chairman Larson then stated he wished to next hear first from representatives of the two employee organizations.

Guillermo Vasquez, Executive Director of ESEA, stated there is a need for labor stability and that the process has divided the workforce. He also commented that having multiple elections has delayed the collective bargaining process with CCSD and that the division is not helping anyone. Mr. Vasquez alleged that Teamsters Local 14 has had a campaign to get the members to annually drop their membership from ESEA. He further stated that animosity has built up between employees and that it is now time to put aside these divisive elections as there has been three opportunities. The Board should now give ESEA the opportunity to unite to win and gave an example of the support staff who are being represented, in response to a series of questions from Board Member Masters. He then also gave examples of their members, who are in need, and who qualify for food stamps and welfare because of their low pay. He furthermore stated that the employees cannot be divided if they hope to win against CCSD. He finally quote Hoffa on the issue of unity and stated that everyone needs to unite to win.

Larry Griffith, Secretary/Treasurer/CEO, of Teamsters, Local 14 stated that Teamsters did not raid anyone and that CCSD has been paying ESEA's legal fees. Rather, CCSD support staff employees came to him years ago because they were concerned that their health and welfare fund was going bankrupt. He stated he gets constant phone calls regarding suspension and termination issues and that he gets those calls because ESEA does not show up to meetings. He then remarked that if ESEA claims it is an association then it should act like one. He further stated that their insurance is

so bad that many employees cannot even use it and that the plan is the worst in the valley. In contrast, he claimed that Teamsters has the best insurance. He also commented that it is sad that CCSD has support staff employees on welfare and that solution to this issue is that ESEA should merge with Teamsters. He finally disputed the actual number members and alleged that ESEA plays a "shell game" with its membership numbers.

Cheryl Gorman stated she brought letters from the Cheyenne bus yard. She requested the Board order another election as the employees have the right to choose the representation they want.

Lenette Judie-Calhoun stated the employees would like Teamsters as their representative because ESEA does not represent them. Therefore she requested that another election be held.

Lamont Phipps thanked the Board for the opportunity to speak. He stated that the employees want change and that they want Teamsters.

Mary Dungan spoke a second time, claiming that the ESEA representative, Guillermo Vasquez, distorted the truth in what he said and that any division is coming from ESEA and not Teamsters.

In addition to the oral public comment, a number of written comments and petitions were also received by the EMRB. Copies of these documents are included as an appendix to these minutes.

**3. Approval of the Minutes**

The Board approved the minutes as corrected for the Board meeting held April 12, 2016.

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| <b>CASES</b> |
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**HEARING CALENDAR**

**4. Case 2015-020**

**International Union of Elevator Constructors, Local 18 v. Clark County**

The hearing on the case was cancelled as the EMRB received a Stipulation and Order of Dismissal. Upon motion, the Board approved the Stipulation and Order of Dismissal, as presented, with each side responsible for its own fees and costs.

**STIPULATION CALENDAR**

5. **Case A1-046092**  
**Washoe County School Police Officers Association v. Washoe County School District**  
Upon motion, the Board approved the Stipulation to Dismiss, as presented, with each side responsible for its own fees and costs.
6. **Case 2015-022**  
**Teamsters, Local 14 v. City of Mesquite**  
Upon motion, the Board approved the Stipulation to Dismiss, as presented, with each side responsible for its own fees and costs.
7. **Case 2015-033**  
**Esmeralda County Sheriff's Deputies Association & Mendes v. Esmeralda County**  
The Board tabled this item to the next meeting as the Stipulation to Dismiss had not yet been filed by the parties.
8. **Case 2016-001**  
**Teamsters, Local 14 & Petrie v. City of Boulder City**  
Upon motion, the Board approved the Stipulation to Dismiss, as presented, with each side responsible for its own fees and costs.

**MOTION CALENDAR**

9. **Case 2016-005**  
**Nye County v. Nye County Law Enforcement Management Association**  
Upon motion, the Board granted the Amended Petition for Permission to Withdraw Recognition of Bargaining Unit Nunc Pro Tunc, thus granting its request to withdraw recognition of the Nye County Law Enforcement Management Association, which currently has no employees in the bargaining unit.
10. **Case 2016-008**  
**IAFF, Local 2251 v. City of Carson City**  
Upon motion, the Board denied the Motion to Dismiss, noting that there is sufficient probable cause to deny the motion and that it remains to be determined whether the Respondent deliberately designed the unit in question to avoid it being part of the bargaining unit. Furthermore, the Board stated it wants to receive evidence on both the community of interest issue as well as any reasons raised by the Respondent for denial of the employee organization's request. Finally, the Board found the Petition was timely filed.

11. **Case 2016-009**  
**James Burt & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department**

Upon motion, the Board denied LVMPD's Motion to Dismiss the Complaint, noting that there are relevant facts in dispute that would require that a hearing be held.

**CALENDAR FOR MISCELLANEOUS MATTERS RELATED TO CASES**

12. **Case A1-045735**  
**International Brotherhood of Teamsters, Local 14, AFL-CIO v. Clark County School District and Education Support Employees Association**

Commissioner Snyder first reported why the matter is back before the Board and also briefly explained his plan for a potential fourth election. He further commented on the fact that the agency has yet to formally receive the remand. He also briefly explained the plan and requested that the attorneys, when they speak, comment on the plan in addition to any other remarks they wished to make.

Frank Flaherty, Esq., attorney for ESEA, stated first that CCSD has not paid ESEA's legal fees. He noted that the Board has drifted off its mission and that the purpose of the Board is to be reactive to things brought before it and not to be proactive. He also remarked that the case has not yet been remanded back to it by Judge Cory. He then took some time to explain the history of the case since 2002. He next commented that subsection (4) and the issue of good faith doubt and how this shows that an employee organization, if any, must represent a majority of the employees in a bargaining unit at a point in time. Mr. Flaherty further argued that the election process has been fulfilled and thus is over. Elections have been held and no union ever received enough votes. He furthermore mentioned the Board's own order in 2006, which stated that the Board exhausted its jurisdiction on the matter, as well as the Board's 2015 order, which stated that ESEA was to remain the bargaining agent. He then offered the question as to why ESEA should still be the agent to represent the employees and answered it by stating that ESEA demonstrated majority support 40 years ago and that the legislature has never required existing bargaining agents to periodically show majority support through additional elections, and furthermore, that CCSD has never petitioned the Board to withdraw recognition of ESEA. He noted that there is significant cost associated with the elections. Mr. Flaherty commented on the election plan and that it was his opinion that the payment plan would be illegal. Finally, he stated that the Board should be prudent on this matter by ending the process and have Teamsters 14 wait for the next window period.

Commissioner Snyder responded to the Board that the voluntary payment plan in his proposal is not outside the Board's authority and is different than the mandatory payment proposal in the draft regulation that was abandoned, and is different because (1) it is voluntary and (2) that it would be at the option of any employee organization who wished to have additional mailings, which would also be voluntary.

Kristin Martin, Esq., attorney for Teamsters, Local 14 stated there is no division and that everyone is here because of the Board's decision in 2002 to require interpret its own rules as requiring a supermajority. She also argued about the "if any" provision of the good faith doubt standard. She remarked that there have been three elections and Teamsters Local 14 has won by a landslide each time and that in each subsequent elections Teamsters Local 14 has received more votes while ESEA has received fewer votes. She commented that collective bargaining is premised on the idea of democracy. She remarked that EMRB got it right in its 2015 order in that having an existing doubt does not promote labor stability and that the Board exists to resolve those doubts. She also commented that ESEA did not technically win the case when it was before Judge Cory. There were two issues before the judge and that he ruled in favor of the EMRB, holding that it did have the right to hold another election, but that it used the wrong standard for determining the winner, if any, of the election. In fact, Ms. Martin stated that the judge stated the EMRB does have both jurisdiction as well as the discretion to decide what to next and thus the remand. Also she stated that only following the democratic process will make for labor stability and that ending the process will not make for labor stability. She next disputed the assertion Mr. Vasquez that Teamsters had violated any anti-raiding rules and she also disputed the assertion that existing members want ESEA, instead noting that perhaps existing ESEA members only want to be represented by a union and not necessarily ESEA. With respect to the proposed plan, she believes that voluntary contributions would be just that – voluntary – and that it is within the Board's discretion and that a one-year voting period is consistent with the discretion afforded the Board.

Scott Greenberg, Esq., attorney for the Clark County School District, stated that he would reserve any comment until a formal election plan is drafted.

Chairman Larson then asked Scott Greenberg as to why CCSD has not taken steps to decertify ESEA since it is known that ESEA does not have as members a majority of the employees in the bargaining unit.

Scott Greenberg responded by stating that this was not the appropriate time to comment on internal deliberations. He also stated that having pending elections put the school district in a position of not wanting to disturb those elections by taking any other actions.

Frank Flaherty stated that there is an organized drop campaign and that he contests the numbers regarding ESEA membership. He further disputed that there is no issue with the payment plan proposal offered by the Commissioner for subsequent mailings of election materials. He again stated that Teamsters Local 14 should wait until the next window period and avoid taking shortcuts as it has in the past.

Vice Chairman Eckersley then asked Mr. Flaherty why Judge Cory remanded the case back to the Board if indeed the Board should not take any action. In response, Mr. Flaherty stated he disagrees with Judge Cory about the Board continuing to have jurisdiction for another election and that he also is arguing that the Board should not

undertake another election.

Commissioner Snyder then asked both attorneys to address the issue of window periods. Mr. Flaherty stated that the window period should apply and that it would be opening up in November prior to the end of the next contract, which is in arbitration.

Kristin Martin stated another election can be held and went through various decisions and that Judge Cory's order remanded the case back to the Board, noting the Board does have discretion to do so. Furthermore, although the proposed order is couched that any action would be voluntary on the part of the Board, the reality is that he would have only remanded the case back if he felt some action should be taken. Finally, commenting on the idea of waiting for the next window period, she stated that this would only lead to more work for the Board in the end.

Guillermo Vasquez responded that the support staff employees need a new collective bargaining agreement and that an additional election will not help that process but will instead pull the employees apart. Instead, Teamsters should wait for the next window period.

Larry Griffith responded that Teamsters probably represents more employees than ESEA and they are the bargaining agent. He also stated that the employees cannot afford to live on what they make and that the situation today is not labor stability.

Upon close of the discussion the Board went into closed session and deliberated on the matter. Upon returning to open session, the Board, upon motion, decided that its decision was proper in going from the supermajority rule to the simple majority rule and thus elects to appeal Judge Cory's decision to the Nevada Supreme Court. The appeal would be contingent upon Judge Cory's issuance of a written decision where he would formalize the decision that he announced in open court. Upon receipt of such a written decision, the Board directs the Office of Attorney General to take whatever action it deems necessary or appropriate to perfect the appeal on an expedited basis and that it would not conduct another election at this time.

**13. Case 2015-031**  
**Police Officers Association of the Clark County School District v. Clark County School District**

The Board continued its deliberations but came to no decision on the matter.

**14. Cases in the Queue for Future Hearing or Settlement Conference**  
The Board agreed to hear the following case and directed the Commissioner to set it for hearing in June, if possible: 2015-017, North Las Vegas Police Supervisors Association v. City of North Las Vegas.

The Board agreed to hear the following cases and directed the Commissioner to set them for hearing in July, if possible: 2015-029, Melissa Reed v. Storey County and Antinoro and 2016-008, IAFF, Local 2251 v. City of Carson City.

The Board agreed to hear the following case and directed the Commissioner to set it for hearing in September, if possible: 2015-019, Pamela Dittmar v. City of North Las Vegas and Teamsters, Local 14.

The Board agreed to hear the following case and directed the Commissioner to set it for hearing in October, if possible: 2015-027, Tammy Bonner & Bachera Washington v. City of North Las Vegas.

The Board ordered the following case be sent to a settlement conference, to be conducted by the Commissioner: 2016-006, Paul Lopez v. IAFF, Local 1908.

The Board took no action on any of the other cases in the queue.

## GENERAL AGENCY MATTERS

### 15. Schedule of Future Board Meetings

The Board reviewed the proposed schedule and made changes to the following for 2016:

| <u>Dates</u>                 | <u>Location</u>  | <u>Hearings on Cases</u> |
|------------------------------|------------------|--------------------------|
| June 14, 15, & 16, 2016      | Las Vegas        | 2015-017                 |
| July 12, 13, & 14, 2016      | Reno/Carson City | 2015-029 & 2016-008      |
| August 16, 17, & 18, 2016    | Las Vegas        | A1-046127 + another case |
| September 13, 14, & 15, 2016 | Las Vegas        | 2015-019                 |
| October 4, 5, & 6, 2016      | Las Vegas        | 2015-027                 |
| November 8, 9, & 10, 2016    | Las Vegas        | Not yet assigned         |
| December 13, 14, & 15, 2016  | Las Vegas        | Not yet assigned         |

### 16. Report of the Deputy Attorney General

Deputy Attorney General Werbicky reported on the various matters pending in court. He especially noted the proceedings in the case involving SEIU, Local 1107 and Clark County in which the judge has not yet rendered a decision. The case is on for a status check on May 24, 2016. However, it is likely that the case may end up being moot due to proceedings before Judge Bare. Mr. Werbicky also reported on the Petition for Judicial Review involving the election issue between ESEA and Teamsters, Local 14, noting that the judge agreed with the EMRB that it could hold another election but overruled the EMRB, holding that it did not have the authority to abandon the so-called supermajority rule. Judge Cory then remanded the case back to the EMRB. The official order for remand has not yet been signed but is expected to be signed shortly.

### 17. Reports by the Commissioner

#### A. Report on Cases Currently Outstanding.

Commissioner Snyder briefly discussed the contents of the log.

- B. Report on the Fact Finding Panel Held Between the International Union of Elevator Constructors, Local 18 and Clark County.  
Commissioner Snyder reported that a fact finding panel had been held on April 27-28, 2016 and that the unanimous decision of the panel was to make the upcoming fact finding between the parties non-binding. He referenced the minutes of the panel as well as the Decision and Order of the panel, which had both been distributed to the Board. The Board also approved sending letters of appreciation to the three panel members.
- C. Report on Progress of the Fiscal Year 2018-2019 Budget.  
Commissioner Snyder first reported that the Governor's Finance Office has pushed back a number of deadlines from April to June. One bill draft requested was submitted for approval by the Governor's Finance Office. It would replace the current method of selecting a fact finding panel and instead use the Board as the fact finding panel. Two budget enhancement requests were also submitted and we are still awaiting word as to whether the Governor's Finance Office will authorize their inclusion in the upcoming budget. These relate to the increasing of the Board from three to five members and the increasing of the pay of the Board from \$80 per day to \$150 per day.
- D. Setting of the Assessment Rate and Civil Penalty Fee for Fiscal Year 2017.  
Commissioner Snyder recommended that the current assessment rate be kept at the current rate of \$6.75 per employee and that the civil penalty fee be kept at the current rate of \$1.00 per employee. Upon motion, the Board approved the recommendations as presented.
- E. Report on the Upcoming Regulations Workshop To Be Held May 17, 2016.  
Commissioner Snyder reported that a workshop to amend the agency's regulations will be held in the afternoon of Tuesday, May 17<sup>th</sup>. The proposed regulations, if adopted, would (1) allow for the electronic service of documents; (2) no longer require the inclusion of addresses within the complaint; (3) prohibit the attaching of exhibits and documents to complaints, answers, pre-hearing statements and petitions; and (4) adopt the timing rules of the Nevada Rules of Civil Procedure for determining when certain documents are due. He further stated that it is the plan for the agency to hold a public hearing in June and possibly adopt the changes at that time.

**18. Items for Future Agendas**

No items were mentioned for inclusion on a future agenda.

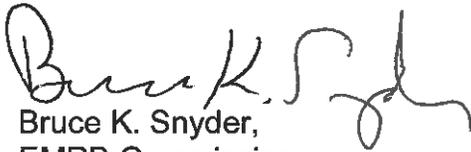
|                        |
|------------------------|
| <b>CLOSING MATTERS</b> |
|------------------------|

**19. Comments by Board Members**

No comments were made by any Board members.

**20. Additional Period of Public Comment**  
No public comment was offered.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce K. Snyder". The signature is fluid and cursive, with the first name "Bruce" being the most prominent part.

Bruce K. Snyder,  
EMRB Commissioner