

MINUTES OF THE SCHEDULED MEETING OF THE
PHOENIX EMPLOYMENT RELATIONS BOARD
CITY OF PHOENIX, STATE OF ARIZONA
Tuesday, February 18, 2020

Members Present:

Gregory E. Fretz, Chairman
Phillip Hanley, Management Member
Fernando Ortega, Public Member
Joseph Diggs, Labor Member

Telephonically:

Peter Maydanis, Public Member

Others Present:

William R. Brown, PERB Legal Counsel
Kathy Schmidt, PERB Executive Director

Also present were:

Eric Wilson, Napier, Coury & Baillie, Attorney for ASPTEA
Greg Carmichael, City of Phoenix, HR Department
Heidi Gilbert, Attorney, City of Phoenix
James McKenna, AFSCME 2384
Jordan Blitz, Law Clerk, Lubin & Enoch
Mark Bizik, HR Department
Mario Ayala, President, AFSCME 2384
Nicholas Enoch, Lubin & Enoch, Attorney, AFSCME 2384
Polly Rapp, Attorney, City of Phoenix
Shannon Bell, Attorney, City of Phoenix
Xavier Frost, HR Department

1. **Call to Order: Chairman Gregory Fretz**, called the February 18, 2020 meeting to order with Five members' present one telephonically.
2. Roll Call – Quorum
3. **Review and approval of the January 21, 2020 Regular Minutes.**

A motion was made that the minutes of the January 21, 2020 Regular Meeting be approved by **Joseph Diggs, Labor Member**. The motion was **seconded** by **Fernando Ortega, Public Member**, and carried by a vote of **5-0**.

4. **AFSCME Local 2384, Technician Specialists.**
PERB Case No. UC-19

Status Update of PERB Case UC-19

Heidi Gilbert, Attorney, City of Phoenix
Greg Carmichael, City of Phoenix, HR Department
Nicholas Enoch, Lubin & Enoch, Attorney, AFSCME 2384
Eric Wilson, Napier, Coury & Baillie, Attorney, ASPTEA

Heidi Gilbert, Attorney, City of Phoenix, good morning Mr. Maydanis can you hear me.

Peter Maydanis, Public Member, yes, I can Ms. Gilbert, very nicely, thank you.

Heidi Gilbert, Attorney, City of Phoenix, your very welcome sir. I have the Deputy Director from Human Resources for class and comp, Greg Carmichael and he is going to give you an update on their progress. This was about the potential creation of new classifications for the User Tech Specialists. I think that they are very close, I think he is still working with IT to solidify that there are five or six classifications that would need to be created and there is three that already exist. He will give you the update on where we are and then from there mostly likely a stakeholder meeting with Units 2, 3 and 7 and then our hope would be to bring a joint recommendation back to this group. There are 108 people in the positions right now that are affected by this. We will work through more of those details after you hear what Mr. Carmichael has to say.

Greg Carmichael, City of Phoenix, HR Department, coming around is an illustration or chart of the status of our project as we are trying to tease out the actual job duties of the User Tech Specialists Classification. You will see on the left side of the page there the number of filled positions in each of the roughly 15 different departments across the city. We have 108 filled positions in this point in time. The challenges reminding you the last time I stood before you, all of these positions reside under this same classification specification. So, the actual description of the work being done is the same in every one of the departments and all three of the labor groups that are represented. Our challenge is to move over to a new job architecture which is this middle column where we want to build job descriptions or classifications that accurately describe the kind of work being done. The top half of that chart in the new job architecture in the tan or orange colors, we have been working very closely with Information

Technology Department, the subject matter experts there and we have identified what we think are five that would-be brand-new classifications that describe each of the types of work in those different descriptions. These would-be brand-new classifications and we have draft job descriptions at this point that really encapsulates what the work being done in those different categories. The row in the middle, the New – Baggage Handling Systems Specialists, that is a type of work that really doesn't fit in the same vein as the other IT classes pursuant to the expert opinions of the IT group. We would want to develop that and then we have identified a least three different kinds of work that probably best fit into existing classifications elsewhere in our structure. We have gone back and forth with several of the departments on the left side of the of the sheet here asking them what kind of work they are actually doing on the ground and developing a structure that would be meet those needs. We are still in the process of doing that and it seems I have under estimated the difficulty of collaborating with all these different agencies and trying to build out real job classifications. Once we finish that and I think within 60 days we will have our arms wrapped around all of that work. Then we would move over to step two which is where this body would validate the labor assignment for each of the new classifications. We have not yet identified or are ready to recommend for each type of work listed in the middle column what labor groups should be the entity that represents that work. That will come in step 2 and this body will make that final determination and then we move on to step 3 where would actually move the positions from the left side of column into this new structure and that responsibility lies with the HR Committee and ultimately with City Council steps 3 and 4 on the chart. So in summary I think within the next 60 days if we could have a little more time to finish up the class specs to coordinate with labor groups as we prepare a recommendation for this group before we move into step 2 so that when we come before you next time we would have classification specifications for each type of work and a recommendation that we think which labor group would be represent that type of work and that would be in step 2. We are asking 60 more days to finish that work. I would be happy to answer any questions or yield the podium to someone else.

Joseph Diggs, Labor Member, in your development of these new specifications, how involved are the unions in this middle piece of it.

Greg Carmichael, City of Phoenix, HR Department, at this point they have not been involved at all. For the top 5 classes we have been working with senior managers in the IT Department because we believe them to be the subject matter experts for describing the type of work.

Joseph Diggs, Labor Member, describing the type of work they currently do or describing the type of work they want them to do?

Greg Carmichael, City of Phoenix, HR Department, that they are currently doing.

Joseph Diggs, Labor Member, OK. On this left-hand sheet here the list in grey how many different unions are represented in that breakdown of User Tech Specialists, I'm assuming some of these fall under AFSCME, some fall under ASPTEA, do you know?

Greg Carmichael, City of Phoenix, HR Department, they are roughly 50/50 between Unit 2, ASFCME and Unit 7, ASPTEA. I think there is one position in Unit 3 and I don't know which department that is in.

Joseph Diggs, Labor Member, and you're creating the "New – Baggage Handling System Specialist, is that correct?

Greg Carmichael, City of Phoenix, HR Department, yes.

Joe Diggs, Labor Member, then with these in green are you saying that you are going to convert those or are you going to find someplace to put them somewhere else.

Greg Carmichael, City of Phoenix, HR Department, from the left side there are probably five or six positions where the department has described what it is they are actually doing and when they send that description to us we read that description and we say that really fits in the existing classification of project manager, or they send something over and that describes what they are actually doing and we say that actually fits in an existing class of senior UTS or something like that. We would not be proposing developing new classifications but rather taking those positions where they are actually doing that level of work and reclassifying them into one of these green boxes if that is the most appropriate thing to do.

Joe Diggs, Labor Member, what does "Find Existing?" mean?

Greg Carmichael, City of Phoenix, HR Department, one of the descriptions that came over from aviation described the type of work where the worker is conducting building automation technology work, so they are managing sprinkler systems and doorways, thermostat controls and it's all computerized and they originally said this was technology work because it is all computerized? As we worked with the IT group and as

they described their networks and infrastructures this building automation didn't fall in the same vein as the other IT kind of work and so we think there is probably a position, and we would talk with planning and development and some of the other departments that do that kind of work. We think there is probably a classification that exists for that, but we haven't gone through that work yet.

Joe Diggs, Labor Member, OK.

Gregory Fretz, Chairman, any other questions?

Nicholas Enoch, Attorney, AFSCME Local 2384, I'm the attorney for the petitioner, ASFCME 2384. I think that at this point just a little bit of background as to what we have achieved as far as moving the ball forward since our last meeting. I heard nothing from the city from this matter, nothing, radio silence, in the months since then. My client the president of the local represents that he heard nothing about this matter in the months since and this spreadsheet that we got handed out today was the first we have seen it. I don't want to say the city is dilly dallying, but it does seem we are just kicking the ball down the field kind of internally and I would suggest there really is no reason why we couldn't schedule this matter to hearing and still go through this process. It seems pretty undisputed at this point that there is confusion amongst these classifications as to which unit they belong in. I would recommend we get a hearing officer, we get in touch with the hearing officer and at the same time we simultaneously go through this process, it doesn't mean we can't settle it eventually once we get some clarity as to what these people are doing but either way it's still has to come before you to determine where these people belong and what unit. Let's just get the thing scheduled and move the ball forward. I don't think that we need to put the pedal to the metal and go 100 mph to try to schedule a hearing and get it over with. It seems like getting a hearing officer, then frankly that hearing officer can be the one that reviews these updates and then comes up with a schedule for when we are going to hear the case. If the hearing officer looks at this and says OK, they need another month to come back and come with a proposal, so I will delay it a month that's fine let him or her decide that, but we don't need to keep coming back to you to be able to do that. I guess I do know what the city wants because I was told beforehand today but I think they just want another delay of a couple months to keep this ball going. We can also schedule a hearing or get a hearing officer and still move forward with this. I think we are six months into this now at this point, I would have to look at the date of the petition. It seems like even the city acknowledges that there is a jumble as to these people and what they are doing and we need to figure it out. Let's get this thing scheduled.

Heidi Gilbert, Attorney, City of Phoenix, before we hear from Mr. Wilson from ASPTEA, I respectfully disagree with that, there is no reason to meet with folks until we have something to present or work through with them. Hopefully we come to you with a joint proposal that moves the petition. If there are still individuals that think they have been placed in the wrong category that starts a new petition or a new charge or something. The issues or the jumbles that he is talking about were the fact we had the same job classification for three different positions in three different units. That has nothing to do with whether those classifications which are now going away. I'm not sure what a hearing officer is going to get you that you can't decide for yourselves. In fact, I think the parties intent or at least the city's intent would be to work with 2, 3, and 7 to make a joint proposal to you and essentially do all that work for you and to show you where the pressure points are, these are the ones we agree on, these are ones that we just don't. Then we would need a decision maker. That wouldn't be based on the original petition that filed in anyway shape or form. The hope would be that this kind of resolves it. There really hasn't been a reason to meet with them yet and we definitely need more time and that is what Mr. Carmichael is trying to explain, we are just trying to figure out where is the potential that these bodies can go. We haven't even solidified that so what would be the presenting to them. We haven't even decided which classifications much less where these actual employees would go. So, I hope that makes sense but the whole point was to present the information directly to you to make the decision which we think you are more than able to do.

Nicholas Enoch, Attorney, AFSCME Local 2384, I would like to thank counsel for letting me respond to Ms. Gilbert. I think she actually kind of confirmed what I'm saying which is that there is no reason why we can't get a hearing officer, get started on that process and in the mean time get into the detail of what these people are doing and if we are then able to reach a settlement or partial settlement as a to a number of them, great. We can walk and chew gum at the same time and that would be the perfect way to do it. Then we would come back and we would seek your approval for all or a part and then litigate the rest if need be. The idea that we would need a new petition, you are the board, you can determine if we need a new petition. If we need a new petition I can do an amended petition, we will keep the same number. This is how it is done before the National Labor Relations Board, you just amend the petition. You say now instead of doing the user techs we are now going to clarify what these 9 new positions are, that is a formality, we are talking about the same people, we are talking about 108 people. You can them user techs you can call them any of things it makes no difference, so thank you.

Eric Wilson, Attorney, ASPTEA, on behalf of ASPTEA, Unit 7. I think the first thing I want to tell you not to set this for a hearing yet. I think we need more time, I do think that labor needs to be involved in this process that Mr. Carmichael just set out. I want to thank Mr. Carmichael for his efforts in this so far and it does seem like a heck of a lot of work. I would even ask for 90-days not 60 because if they get this done in 60 I would like to at least have the unions involved in it for just a little while, so we can actually figure out if we have an issue with the way did their job. Lack of involvement on this so far, we can get over that as long as we get to see the end product. I can't sail the ship here yet, but I do have some minor headaches about these green columns, these existing, are we actually reclassifying them and is that a cross clarification that the city needs to come up this. I guess I really want to see how this architecture sets out and lays the foundation for this. I think we would be wasting quite a bit of resources in trying to organize 108 participants who all have a right to be in a hearing. To go ahead and try to prep that, I would ask that you do give more time 50 to 90. Thank you.

Nicholas Enoch, Attorney, AFSCME Local 2384, I don't think my colleague Mr. Wilson said anything that is in disagreement of what I'm proposing, we can do exactly what he is saying but we can get a hearing officer, we can talk to the hearing officer, Mr. Wilson can make his pitch at that point. Let's give this another 60 or 90-days to work through this and see if we can resolve it. We don't have to run off and have the hearing three weeks from now. We are not saying that. I think what we are saying is we are now going on three-month, three-month, three-month and the only update we have gotten was when we show up here. Then we are told we need another three-months. This is a way of holding the parties feet to the fire to actually move this thing along. I'm confident my client wants to resolve this as much as the other parties do. Something in between these three-month increments, we are not optimistic that it is going to happen. In fact, I would probably suggest we would be back here in April getting a couple new handouts and that's where we will be.

Heidi Gilbert, Attorney, City of Phoenix, I don't think that is accurate. The whole point was to schedule these out, give the board progress updates on where we were, the city has been pretty clear that we haven't had enough time and I think we are getting dangerously close to where we need to have a stakeholder meeting to say hey look this is how the dust settled and see what the unions have to say. As I said, we haven't even decided which one of these classifications is 2, 3 or 7 or it belongs in any those, those would be the most likely. I just don't see what a hearing officer gets you for that process. It makes more sense if the parties can

work everything out and if there are issues remaining then those could go to the hearing officer. If we can give you the information or at least we can get the buy in that these issues have been clarified or these classifications, or these positions are well settled the city would have no objection to them amending the petition. We still have the ability for individual members feel like they are in the wrong classification now they would absolutely have the right on their own as the rules state. Mr. Wilson pointed out that each one of those employees has the right to be heard. We can figure out a way to do that but to me it just doesn't make a lot sense to get a hearing officer until the dust has settled. Mr. Wilson, I appreciate the 90-days, the point of 60 the city thinks that it can get the information that it needs from management folks to at least clarify that middle column and then that would allow us time to get with the stakeholders and come back to you with a recommendation in the 60-days. If there is stuff we can't agree on so be it. If Mr. Wilson would like additional time we are OK to that but we are trying to balance it, how do we keep everybody's feet to the fire to get something done to bring to you. Either way you want to go is fine, I'm just not sure what the role of the hearing officer would be right now as we are still sorting through it ourselves.

Nicholas Enoch, Attorney, AFSCME Local 2384, I guess the question that I have for the other parties is why couldn't we both have a hearing officer and have the stakeholder meetings at the same time? These are mutually exclusive processes. That is the easiest way to do it. If we resolve it in whole or in part, great and if we don't then we have some universe of people that we need to litigate over so be it.

Eric Wilson, Attorney, ASPTEA, what I don't want is a moving target for this hearing officer and I think that the 60-days will allow us to actually pinpoint the target. I agree we can chew gum and walk at the same time but not if we are walking in circles. I just want to make sure that we can pinpoint what we are targeting here, where these units classify and how we are trying to clarify that.

Joe Diggs, Labor Member, so you don't want to set up a moving target.

Eric Wilson, Attorney, ASPTEA, yeah, right now, it is my understanding that Mr. Carmichael whose presentation is he actually trying to identify and solidify this job architecture. He is actually trying to tell us what these folks do so that it is like a no brainer that they belong in either 2, 3 or 7. If he does that then we won't have to debate over it, argue, we don't have to chew gum about it. What I'm saying is that we have to do that before we can actually get before we can before anybody, including this body.

Nicholas Enoch, Attorney, AFSCME Local 2384, that assumes those people are actually performing the duties that Mr. Carmichael says they are and if they haven't been in touch with the local about it, this has to be flushed out.

Joe Diggs, Labor Member, that is my concern. It is not that questioning the integrity of Mr. Carmichael. In my experience where we have done class clarifications or reclassification, unit clarifications based on what a person does that is why I asked the question. When you are talking management is it what they do or is it what they want them to do, what they think they planned for them to do. Because when you make a bargaining determination from what the employee actually does in that moment that you go to hearing or wherever making that decision. If you are not discussing the matter what so ever with the union and discussions are only with management supervisory team of the people in question then you are just getting an opinion on what they do. I'm going to be blunt, a lot of managers have no idea what the people do day to day. They know what metrics they are supposed to meet, how they measure that and that's what they know. In their day to day does it actually fit within the confines of where they are supposed to be in a bargaining unit. That is my number one concern, we can work through that, it is not a major deal. My other concern and not having the union or the employees involved is you haven't heard the people that actually do the job. What I'm afraid of is while this is a nice system that we have going, this is almost a year old, OK. By the time we get to it and we go through all this work, we say it lightly, but there is nothing light about it. If the determination finds out that somebody ox is gored to the tune of them losing 30 or 40 members, your damn right we are going to be hear having a hearing. We are going to be going back and forth and this whole system is going to be in question and we are going to be going another round. I'm not convinced that setting it to hearing to hearing wouldn't be the kick in the pants to get everybody going. You can't tell me after a year that we keep coming to these meetings and then the unions are saying it is the first time they are seeing any of this is when they show up here today. I don't understand that. I understand you wanting to get it right before you present it, I understand the mentality behind it but they are stakeholders in it as well. Let's just say one union represents 75 people and all of a sudden they are down to four, there is going to be fighting tooth and nail. If we are going to continue down this process I would strongly recommend that now would be the time to start including the labor organizations as stakeholders in this process so they understand your logic. You are going to present it, it will look nice and you are going to say we did it for you and I'm going to say I didn't ask you to do it all for me I need you to bring me

wall and that is what the opposition does. The initial petition was filed in March of last year. If we go another 60-days and another 60-days we will be back here again because we somehow we will be at 18-months. Honestly, in that same timeframe if you would have done it old, old, old school you could have heard everyone of the people involved, had a hearing and had it resolved.

Heidi Gilbert, Attorney, City of Phoenix, I will just be blunt myself, would you like to pay for that? That was the board's biggest concern about this. Do you want 150 people coming in to testify because that could be potentially what happens and Mr. Enoch put out that we could have classes of people. The reality is you'll be paying for that hearing officer, a lot of the work we can do our self. It should be in a very limited and narrow scope and I will also tell you that the fighting won't be in the middle column sir, it really won't. The fight if there is one is going to be who actually goes where. That is management's job, we have to come to you to get clarification on where those classifications go, are they 2, 3, 7, 4, 5. Police and Fire is pretty easy right. That is his job, that is for management to say these are the classifications and then we have to figure out how many of those do we need. Which I will tell you is part of this petition and I think that unit 2 is over reaching in what they think they can tell management to do. The fight will be who actually fits into each of those classifications.

Joe Diggs, Labor Member, and who determines that? That's my question.

Heidi Gilbert, Attorney, City of Phoenix, and that is what we have to go through. That goes to the work that the people are actually doing, if you hear me out. So, the first thing is are these classifications put int the right place? How many positions do we have? If I am going put somebody in an end user device specialist, what work are they doing? That's the nitty gritty and that's going down into where we need the HR committee recommendations of where those positions are going.

Gregory Fretz, Chairman, to answer your question, the board decides that. Ultimately, we are going to decide that at some point.

Joe Diggs, Labor Member, Ok.

Gregory Fretz, Chairman, let's stop trying to go round and round.

Eric Wilson, Attorney, ASPTEA, so what we are trying to do is narrow that 108 down to only those people who have a true ground in here.

Whether these guys want to involve us or not we are going to take each one of these after they are done with them and take them to the people who fill those positions and say is this what you actually do? If they don't then we have a serious issue to bring to hearing. If they do there is no qualms.

Heidi Gilbert, Attorney, City of Phoenix, my only concern was Mr. Diggs, is that those individuals may not know which one they fit into or they may think they in one and we place them in the other. That is where I'm afraid that there is going to be that consternation. That goes to the day to day nitty gritty which is when I said there is going to be somebody at the end of this process and it may not be the local, it may not be ASPTEA, it is going to be that individual, Johnny or Betty who is upset with where they now ended up. That person would absolutely have the right to come in here and be heard and say hey, I think this is wrong and this is why. I think for what I do day to day I'm more of a microwave radio specialist than I am this other position.

Joe Diggs, Labor Member, Ok.

Heidi Gilbert, Attorney, City of Phoenix, that is what I was concerned about, it is not the creation of the classifications, I think that is what HR does. These guys may fight over whether 2, 3 or 7, that is for you to figure out. For me the real battle sir will be the individual employees and how they are impacted when they ultimately land where they land. This will not be part of this stakeholder conversation, we're just not there. The stakeholder conversation will be walking through this architecture, these are the classifications, the unions may know of another job classification that they meet with their folks and say hey, what about this one, this fits a little bit with what I do. That is for us to work through. That has nothing to do with where those individuals' bodies are going. Totally, totally different conversations.

Gregory Fretz, Chairman, I would ask, does the board have a motion? Does somebody on the board want to make a motion.

William Brown, PERB Legal Counsel, well the agenda on this is a status report.

Gregory Fretz, Chairman, so we can't take any action today at all, we can't ask for a motion.

William Brown, PERB Legal Counsel, that would have to be on the agenda to appoint a hearing officer.

Fernando Ortega, so that is why we are just calling this a status report?

William Brown, PERB Legal Counsel, this was an update on everything.

Gregory Fretz, Chairman, so at our next meeting we could notice everyone that there will be a motion.

William Brown, PERB Legal Counsel, it will be on the agenda whether a hearing officer should be appointed.

Gregory Fretz, Chairman, does everyone understand the game we are playing here.

Fernando Ortega, Public Member, I think that part of the process is that you are trying to match up and I'm going to use a state term of PDQ versus what they are actually doing. Is that the review process?

Eric Wilson, Attorney, ASPTEA, as Heidi pointed out the real fight is going to be step three where what they are actually doing, does that align. That will happen in step three which is a little further down the road than aligning what is the job architecture that we are here for.

Nicholas Enoch, Attorney, AFSCME Local 2384, can I just leave with two final thoughts? First of all, again, this is completely compatible with setting it for hearing at the next board meeting, it is completely compatible. Secondly, Mr. Wilson points out that once you get through this they are going to sit down with the folks and go through if they are actually doing these jobs. I would ask Mr. Wilson what happen if he finds out there somebody that is in his client's unit that actually should be in another unit, are they going to come forward and say hey, we think we have three guys over here that you inadvertently put into our union that should actually belong somewhere else? Is my client going to do that, if my client based on their management's review of these job descriptions put someone inadvertently in their unit that belongs in another unit are they going to be man enough to come up and say hey, these people actually belong in Mr. Wilson's clients union. This is going to have to ultimately going to have to go to hearing at some point to get the board's blessing. Hopefully, it doesn't have to be fully litigated. I can't imagine a scenario which we are going to sit here and have 108 people coming into a hearing and testifying for six months about what they do. That will be left for another day. Thank you for your consideration.

Joe Diggs, Labor Member, I think Mr. Wilson had something else to add?

Gregory Fretz, Chairman, did you have something else to add?

Eric Wilson, Attorney, ASPTEA, we will let cooler heads prevail.

5. **Kathy Schmidt, Executive Director** presented the PERB report on pending cases.
6. **Kathy Schmidt, Executive Director** announced that the next meeting of the Board would be Tuesday March 17, 2020 at 9:30 AM.
7. **Discussion of the recent developments in public sector labor relations in Maricopa County, State of Arizona and with the PERBs.**


NONE

8. **Public Comment**

NONE

9. **Fernando Ortega, Public Member** made a motion that the meeting be adjourned. The motion was seconded by **Phillip Hanley, Management Member**, and carried by a unanimous vote of **5-0**.

Submitted by:



Kathy Schmidt, Executive Director

Approved by:



Gregory E. Fretz, Chairman