STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Tuesday, April 10, 2003, at 10:15 a.m., at 65 East State Street, Columbus. Present at the meeting were Chairman Drake, Vice Chairman Gillmor, and Board Member Verich.

I. APPROVAL OF MINUTES FOR PREVIOUS MEETING:

Vice Chairman Gillmor moved that the Minutes for the regular meeting on March 25, 2003, be approved. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 00-MED-12-1346 Cleveland Fire Fighters, Union Local 93 (Airport Safety Supervisors) and City of Cleveland

On October 16, 2002, the fact finder issued her report. The report was deemed accepted by the parties. On November 6, 2002, the Employee Organization alleged that the report contained an error. On November 21, 2002, the fact finder adjusted her report. On December 13, 2002, the Employer filed a motion to strike the fact-finder's adjustment of the report. The fact finder did not seek the Board's approval for any adjustment to the report. Board Member Verich moved that the Board grant the Employer's motion to strike the fact-finder's proposed adjustment, and adopt the original fact-finder's report as deemed accepted, which was the action of both parties on the original report. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

2. Cases 02-MED-10-1025 02-MED-10-1026 02-MED-10-1027 — Ohio Patrolmen's Benevolent Association and Auglaize County Sheriff

On February 12, 2003, the fact finder mailed his report. The Employer received the report on February 20, 2003, but failed to see the report until February 21, 2003. On February 24, 2003, the Employer filed a motion for extension of time. The Employee Organization filed a brief in opposition to the motion. On February 26, 2003, the Employer filed an "Employer Certification of Fact-finding Vote." On March 5, 2003, the Employer filed a reply brief to the brief in opposition to its motion. The Employer's motion was not timely filed. Vice Chairman Gillmor moved that the Board deny the Employer's motion for extension of time to vote to accept or reject the recommendations of the fact finder and issue a notice of deemed acceptance since neither party timely certified a vote rejecting the fact-finder's report. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

3. Cases 03-MED-02-0096 03-MED-02-0097 03-REP-02-0039 03-REP-02-0040 — Fraternal Order of Police, Ohio Labor Council, Inc. and City of Pataskala

The City of Pataskala filed two motions to stay negotiations with the Fraternal Order of Police, Ohio Labor Council, Inc. The stays were requested as a result of the filing of two Petitions for Representation Election by a rival employee organization, the Ohio Patrolmen's Benevolent Association, in Case Nos. 2003-REP-02-0039 and 2003-REP-02-0040. Board Member Verich moved that the Board grant the motion to stay in Cases 03-MED-02-0096 and 03-MED-02-0097, and expedite the processing of Cases 03-REP-02-0039 and 03-REP-02-0040. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 03-REP-02-0021 — Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Gorham Fayette Local School District Board of Education

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence is sufficient, and no objections have been filed. The Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). Vice Chairman Gillmor moved that the Board certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

2. Case 03-REP-02-0017 — International Union of Operating Engineers Local 18/18G and City of Findlay

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer responded by filing objections. The Employee Organization filed a response. The parties have entered into a Consent Election Agreement. Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on April 29, 2003. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

3. Case 02-REP-10-0202 — Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Richland County Child Support Enforcement Agency

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer filed objections and a Petition for Representation Election. The Employee Organization filed a letter seeking to withdraw the request. Vice Chairman Gillmor moved that Board construe the Employee Organization's letter as a motion to withdraw, grant the motion, and dismiss without prejudice the Employee Organization's Request for Recognition, and dismiss the Employer's Petition for Representation Election as moot. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

4. Case 02-REP-09-0195 International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW and Laketran

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Amendment of Certification seeking to add Customer Service Representative to the existing unit. The Employee Organization filed a letter seeking to withdraw the petition. Board Member Verich moved that the Board construe the Employee Organization's letter as a motion to withdraw, grant the motion, and dismiss without prejudice the Petition for Amendment of Certification. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

5. Case 02-REP-08-0153 University of Toledo Chapter of the American Association of University Professors and University of Toledo

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Clarification of Bargaining Unit seeking to clarify the existing unit to reflect the inclusion of certain faculty. The Employee Organization filed a letter seeking to withdraw the petition. Vice Chairman Gillmor moved that the Board construe the Employee Organization's letter as a motion to withdraw, grant the motion, and dismiss without prejudice the Petition for Clarification of Bargaining Unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

6. Case 02-REP-09-0186 Marion County Women, Infant and Childrens Program and United Steelworkers of America Local 1949 Unit 2B and Marion City Board of Health

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization as the exclusive representative of certain employees of the Employer. The Rival Employee Organization's petition seeks to sever Nutritionist IIs and Service Coordinators from the existing Board-certified unit. The Rival Employee Organization has provided in support of the severance information concerning funding and staff shortages, and copies of grievances filed. The Rival Employee Organization has not made any allegations that meet the severance standard as set forth by the Board in In re State of Ohio, SERB 95-012 (6-30-05).. Board Member Verich moved that the Board dismiss the Rival Employee Organization's petition for severance. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

7. Case 02-REP-10-0218 Communications Workers of America, Local 4340, AFL-CIO CLC and Geauga County Department of Water Resources

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. As a result of the Employee Organization canceling several conference calls, the Employer filed a motion to dismiss for failure to pursue. Subsequently, the Employee Organization made a proposal regarding the bargaining unit. The Employer is not in agreement with the proposal and maintains the proposed bargaining unit contains employees who are confidential or supervisory. Vice Chairman Gillmor moved that the Board deny the Employer's motion to dismiss, direct this matter to hearing to determine an appropriate bargaining unit and for all other relevant issues, and direct the parties to mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

8. Case 02-REP-08-0143 Medina County Achievement Center Employees Association, OEA/NEA and Medina County Board of Mental Retardation and Developmental Disabilities

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employer filed a Petition for Amendment of Certification seeking to amend the certification to create a separate bargaining unit for employees performing service and support administration duties. The Employee Organization filed a response opposing the amendment maintaining the exclusions sought are not appropriate. The Employer maintains that the exclusions sought are performing service and support administration duties and should appropriately be placed in a separate bargaining unit. Board Member Verich moved that the Board direct this case to hearing to determine an appropriate bargaining unit and for all other relevant issues, and direct the parties to mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

9. Case 02-REP-09-0162 Ohio Patrolmen's Benevolent Association and International Union of Police Associations, AFL-CIO and City of Findlay

- There were 5 ballots cast
- There were 0 challenged ballots
- No Representative received 0 vote
- International Union of Police Associations, AFL-CIO received 0 votes
- Ohio Patrolmen's Benevolent Association received 5 votes and has prevailed in this election.

10. Case 02-REP-09-0163 Ohio Patrolmen's Benevolent Association and International Union of Police Associations, AFL-CIO and City of Findlay

- There were 7 ballots cast
- There were 0 challenged ballots
- No Representative received 0 vote
- International Union of Police Associations, AFL-CIO received 0 votes
- Ohio Patrolmen's Benevolent Association received 7 votes and has prevailed in this election.

11. Case 02-REP-09-0164 Ohio Patrolmen's Benevolent Association and International Union of Police Associations, AFL-CIO and City of Findlay

- There were 50 ballots cast
- There were 0 challenged ballots
- No Representative received 0 vote
- International Union of Police Associations, AFL-CIO received 0 votes
- Ohio Patrolmen's Benevolent Association received 50 votes and has prevailed in this election.

12. Case 02-REP-10-0216 American Association of University Professors, University of Akron Chapter and University of Akron

- There were 615 ballots cast
- There were 7 challenged ballots
- No Representative received 220 votes
- American Association of University Professors, University of Akron Chapter received 388 votes and has prevailed in this election.

13. Case 02-REP-11-0232 Teamsters Local Union No. 40 and Mansfield City School District Board of Education

- There were 42 ballots cast
- There was 1 challenged ballot
- No Representative received 15 vote
- Teamsters Local Union No. 40 received 26 votes and has prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Cases 02-ULP-07-0481, 02-ULP-08-0566, 02-ULP-09-0621 — SERB v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 274

On July 11, 2002, August 22, 2002, and September 19, 2002, the Green Local School District Board of Education (District) filed an unfair labor practice charge against the Respondent. On November 26, 2002, the Board found probable cause to believe that the Respondent had committed an unfair labor practice, consolidated the cases, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation. On March 4, 2003, the parties filed joint stipulations of fact. The parties also agreed to waive the evidentiary hearing and submit the briefs, stipulations of fact, and stipulations of evidence directly to the Board members. The parties' briefs were filed on March 21, 2002. Board Member Verich moved that the Board transfer this case from the Hearings Section to the Board for a decision on the merits. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

2. Case 02-ULP-09-0642 — SERB v. City of Barberton

3. Cases 02-ULP-12-0834, 02-ULP-12-0835, 02-ULP-12-0836, 02-ULP-12-0838, 02-ULP-12-0839 — Elgin Doss, Royce W. Robinson, William Leon Medlea, Marcelino Maldonado, and Roman Dowhaniuk v. International Union of Operating Engineers, Local 18

4. Case 02-ULP-09-0587 — Ohio Patrolmen's Benevolent Association v. City of Youngstown

5. Case 02-ULP-08-0533 — SERB v. Cuyahoga Metropolitan Housing Authority, Police Department

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to withdraw and dismiss, grant all of the motions, dismiss the complaints, and dismiss with prejudice the unfair labor practice charges. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 03-ULP-01-0026 MARCA Education Association, OEA/NEA v. Marion County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to resume mediation, and making public its final offer during a public meeting and through the local newspaper. Information gathered during the investigation reveals a portion of the charge is a duplicate of Case 03-ULP-01-0025, which was dismissed. The remaining allegations do not rise to the level of a violation. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and with regard to the Charged Party's refusal to hold another mediation session as being a duplicate filing. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

2. Case 03-ULP-01-0012 Cory Wright v. City of Niles

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by interfering with the Charging Party's rights. Information gathered during the investigation reveals the Charged Party followed the contract regarding seniority. The Charged Party's actions did not interfere with, restrain, or coerce the Charging Party in the exercise of his guaranteed rights. Knowledge of the alleged violations occurred more than 90 days before the charge was filed with the Board. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

3. Case 03-ULP-01-0013 Cory Wright v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 506, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party. Information gathered during the investigation reveals the Charging Party was advised on October 8, 2002, that his grievance lacked merit and would not be advanced to arbitration. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

4. Case 02-ULP-12-0806 Cuyahoga County Protective Services Sergeants v. Cuyahoga County Commissioners

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith. Information gathered during the investigation reveals the Charged Party bargained in good faith. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

5. Case 02-ULP-12-0780 Columbus State Community College v. Columbus State Education Association, OEA/NEA

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(8) by picketing the Charging Party's campus with regard to negotiations without proper notice. Information gathered during the investigation reveals a notice of intent to strike or picket was filed September 6, 2002, regarding negotiations at impasse under an alternate dispute settlement procedure. The picketing occurred December 2 and 3, 2002, after the fact-finder's report was rejected. The Board's investigation of this charge reveals that probable cause exists for believing a violation occurred. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11 (B)(8) by picketing without proper notice, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

6. Case 02-ULP-12-0800 Paulding Education Association, OEA/NEA v. Paulding Exempted Village School District Board of Education

The Charging Party has filed a motion to withdraw the unfair labor practice charge. Vice Chairman Gillmor moved that the Board grant the motion to withdraw with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

7. Case 03-ULP-01-0037 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 2330 v. State of Ohio, Department of Rehabilitation and Correction, Southeastern Correctional Institution

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (6) by refusing to allow a union representative to speak during a fact-finding disciplinary interview, failing to adhere to pre-disciplinary and grievance requirements, and subjecting an employee to progressive discipline in retaliation for his protected activities as a union steward. Information gathered during the investigation reveals the discipline was for reasons other than engaging in protected activities. The Charging Party has failed to support the remaining allegations, and those allegations occurring on or before October 29, 2002, are untimely. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed with regard to the allegations that occurred on or before October 29, 2002. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

8. Case 02-ULP-12-0829 Dennis Thomas v. State of Ohio, Department of Rehabilitation and Correction, Ohio State Penitentiary

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (5), (7), and (8) by refusing to comply with a grievance settlement, and by locking the Charging Party out of his work area. Information gathered during the investigation reveals the Charging Party failed to qualify under the grievance settlement, and was reassigned for institutional security reasons pending an investigation. The Charging Party failed to show Ohio Revised Code § 4117.11(A)(5), (7), or (8) violations occurred. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

9. Case 02-ULP-12-0790 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 275 v. Chesapeake Exempted Village School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing the method of calculating extra-trip pay for bus drivers. Information gathered during the investigation reveals the extra-trip pay issue was raised at the re-opener, but the Charging Party ratified the agreement without fully negotiating the extra-trip pay. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

10. Case 02-ULP-12-0840 City of Salem v. International Association of Firefighters, Local 283 and Tom Eastek

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (3) by engaging in bad-faith bargaining. Information gathered during the investigation reveals the statement at issue was made after the parties bargained to impasse. No ground rules were in place, and contacting the Chief did not bypass the Charging Party's designated representative. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

11. Case 02-ULP-11-0755 International Association of Fire Fighters, Local 109 v. City of Newark

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally announcing and then passing an ordinance that paramedics must maintain certification as a condition of employment. Information gathered during the investigation reveals the Charged Party unilaterally implemented the requirement for paramedic certification. Additionally, there was no information provided to support an Ohio Revised Code § 4117.11(A)(3) violation occurred. The Board's investigation of this charge reveals that probable cause exists for believing a violation occurred. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (A)(3), by unilaterally implementing an ordinance that paramedics must maintain certification as a condition of employment, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

12. Case 03-ULP-02-0045 Robin L. White v. City of Brook Park

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by eliminating the Charging Party's position without the benefit of proper negotiations. Information gathered during the investigation reveals the matter was negotiated with the union and is permissible pursuant to the contract. The Charging Party failed to show Ohio Revised Code § 4117.11(A)(3) or (5) violations occurred. The Charging Party's transfer on October 14, 2002, occurred more than 90 days before the charge was filed with the Board. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

13. Cases 03-ULP-01-0042 — Louis Paroska v. Ohio Patrolmen's Benevolent Association

03-ULP-01-0043 — Louis Paroska v. Madison Township, Lake County

In Case 03-ULP-01-0042, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to fairly represent the Charging Party by waiving his right to a pre-disciplinary hearing without his permission. In Case 03-ULP-01-0043, the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (5) by failing to provide written notice of the Charging Party's wrongful conduct because he exercised guaranteed rights. Information gathered during the investigation reveals the Charging Party attended the pre-disciplinary hearing and saw the investigation and charges against him. Board Member Verich moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

14. Case 03-ULP-02-0046 — Robin L. White v. Municipal Foremen and Laborer's Union, Local 1099, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by eliminating the Charging Party's position without the benefit of proper negotiations. Information gathered during the investigation reveals the Charged Party negotiated the abolishment and creation of a new position to which the Charging Party was transferred pursuant to the contract. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. The Charging Party's October 14, 2002 transfer occurred more than 90 days before the charge was filed with the Board. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

15. Cases 02-ULP-12-0807 — Ohio Patrolmen's Benevolent Association v. Geauga County Board of Commissioners

02-ULP-12-0808 — Ohio Patrolmen's Benevolent Association v. Geauga County Board of Commissioners and Mary Elizabeth Vaughn

The Charging Party has filed a motion to withdraw the unfair labor practice charges. Vice Chairman Gillmor moved that the Board grant the motion to withdraw with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

16. Case 03-ULP-01-0034 — Aundra Stubbs v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 0501

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) and (6) by deciding not to process the Charging Party's grievance. Information gathered during the investigation reveals the grievance was not processed because it lacked merit, and the Charging Party was notified so that he could file a grievance on his own. The Charging Party failed to show an Ohio Revised Code § 4117.11(B)(3) violation occurred. The Charged Parties' actions were not arbitrary, discriminatory, or in bad faith. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

17. Case 02-ULP-11-0746 Jody Angelone v. Vanguard Sentinel Joint Vocational School District

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by retaliating against the Charging Party for protesting the Charged Party's decision not to pay her and her staff and for reporting the matter to the union and constructively discharging her. The Board's investigation of this charge reveals that probable cause exists for believing a violation occurred. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11 (A)(1) and (3), but not (A)(5), by retaliating against Ms. Angelone for protesting the School's decision not to pay her and her staff and reporting the matter to her union, and imposing intolerable work conditions leading to a constructive discharge, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

18. Case 02-ULP-11-0760 Louis D. Brown, III v. City of Cleveland, Division of Water

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by refusing to provide the Charging Party with requested information during the processing of his grievance. Information gathered during the investigation reveals that the Charged Party did not comply with the requests for information. The Board's investigation of this charge reveals that probable cause exists for believing a violation occurred. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11 (A)(1), but not (A)(6), by refusing to provide Louis D. Brown, III with requested information during the processing of his grievance, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

19. Case 03-ULP-01-0028 Shawn Macks Huffman v. Communications Workers of America, Local 4501

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by agreeing to and compelling the Charging Party to sign a last chance agreement, which led to his termination. Information gathered during the investigation reveals there was no information provided to support the allegations. The Charged Party continues to represent the Charging Party. The events in 2001 occurred more than 90 days before the charge was filed with the Board. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed with regard to the events that occurred in 2001. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

20. Case 03-ULP-01-0031 Diana Sue McCallister v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 3449, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to represent the Charging Party with regard to her complaints. Information gathered during the investigation reveals the Charging Party did not indicate she wished to file a grievance. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Knowledge of the alleged violation occurred more than 90 days before the charge was filed with the Board. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

21. Case 02-ULP-11-0726 City, County and Waste Paper Drivers Local Union No. 244 v. City of Cleveland

Board Member Verich moved that the Board dismiss the unfair labor practice charge with prejudice because of the Charging Party's failure to pursue the matter. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

22. Cases 02-ULP-08-0551 02-ULP-08-0553 02-ULP-08-0554 — Jack Rogers v. Canfield Local Board of Education, et al.

02-ULP-08-0552 — Jack Rogers v. Canfield School Bus Drivers Association

On January 16, 2003, the Board dismissed the unfair labor practice charges for lack of probable cause. On March 7, 2003, the Charging Party filed an appeal for reconsideration of the Board's decision. A review of the original investigation reveals that the Charging Party has failed to raise any new issues warranting reversal of the dismissal. Vice Chairman Gillmor moved that the Board construe the appeal for reconsideration as a motion for reconsideration and deny the motion with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

23. Case 03-ULP-01-0027 — North College Hill Police Association v. City of North College Hill

24. Case 03-ULP-02-0063 — International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW v. Lucas County Commissioners

25. Case 03-ULP-02-0064 — International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW v. Lucas County Sheriff

26. Case 03-ULP-02-0089 — Lakewood Association of Fire Fighters, Local 328, IAFF v. City of Lakewood and Mayor Madeline Cain

Board Member Verich moved that the Board construe the letters and notice requesting withdrawal as motions to withdraw, and grant all motions with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

VI. ADMINISTRATIVE MATTERS:

1. At the first Board meeting of this year, the State Employment Relations Board voted to include the directives issued for the cases at the meeting as part of the minutes for that meeting. General Counsel Russ Keith proposed to the Board an alternative way to expand the Board minutes that would still meet the Board's goal without severely increasing the size of the minutes. The expansion would include details about the cases that are presented in the meeting, but it is not a "verbatim transcript". This expanded format would start with the minutes for the April 10, 2003 meeting. By accepting this proposal, the directives would no longer be on the web site included with the minutes. Mr. Keith's recommended proposal is that the Board no longer include a copy of all of the directives with the minutes and adopt the proposed "expanded" format for its minutes. Board Member Verich moved to accept the expanded format for its minutes. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

   Vote: DRAKE Aye GILLMOR Aye VERICH Aye
   Affirmed X Denied _

2. Mr. Keith presented to the Board a copy of the Entrance Conference Agenda for the audit to be conducted for Fiscal Years 2002 and 2003. Mr. Keith and Fiscal Officer Danneta Babbs will be assisting the auditors while they are conducting this audit.

3. Mr. Keith presented to the Board two proposals relating to the authorization to purchase laptop computers and a projector. The first proposal is the replacement of outdated laptop computers used by the Bureau of Mediation. IT Administrator Anderson Reed obtained three quotes for the laptop computers from vendors on the State Term Schedules. The least expensive quote for the six laptop computers to be replaced was $10,200.00 from CDW-G, which included the laptop computers, port replicators, three-year warranty extension, and soft carrying case. The least expensive quote received for the brilliant (2000 Lumen) multi-purpose projector was $2,110.00 from CDW-G, which includes the projector, replacement lamp, and soft carrying case. Vice Chairman Gillmor moved that the Board authorize the expenditure of $13,000.00 for the purchase of six laptop computers and one multi-purpose projector during Fiscal Year 2003 if funds are available. Board Member Verich seconded the motion. Chairman Drake called for the vote.

   Vote: DRAKE Aye GILLMOR Aye VERICH Aye
   Affirmed X Denied _

   The second proposal identifies the replacement of 18 desktop computers and monitors that are at least three years old. The remaining desktops and monitors were replaced one year ago. The lowest quote obtained by Mr. Reed was from CSC for $16,830.00 for the 18 desktops ($935 per desktop) and $11,610.00 for the 18 monitors ($645 for each monitor).

A question was raised regarding cell phones the mediators use and their need for new ones. Mr. Keith mentioned that they are not being addressed at this time, and he will check with the mediators to see if they have any other needs and will report back at the next board meeting. Board Member Verich moved that the Board authorize the expenditure of $29,000.00 for the purchase of 18 desktop computers and 18 monitors during Fiscal Year 2003 if funds are available. Board Member Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

4. Mr. Keith presented to the Board a memorandum relating to automobiles/pool cars owned by SERB, including mileage figures and maintenance costs. At the present time the car used by Doug Corwon is being used as a pool car. Dale Zimmer's car has the most mileage on it. It was suggested that Mr. Zimmer now use Doug Corwon's car since he is no longer with SERB, and use Mr. Zimmer's car as a pool car, which could be used for local elections or in-town use by the agency. The other pool car, which has less mileage on it, could be used for out-of-town elections. Mr. Keith stated no Board action is required for the change in cars at this time, and he was just informing the Board of the status. The Board was in consensus with the change.

5. General Counsel Russ Keith informed the Board that in HB 95 there were no changes in provisions or dollar amounts for SERB. Testimony will be given on May 6, 2003, at 9:30 a.m. in the Senate Finance Committee.

6. Vice Chairman Gillmor moved that the Board go into executive session, pursuant to Ohio Revised Code Section 1221.22(G)(1), to discuss the employment of public employees. Board Member Verich seconded the motion. Chairman Drake called for the roll-call vote.

ROLL-CALL VOTE: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

Board Member Verich moved that the Board exit from executive session. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the roll-call vote.

ROLL-CALL VOTE: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

VIII. ADJOURNMENT

Vice Chairman Gillmor moved that the Board adjourn the meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied _

Carol Nolan Drake

Carol Nolan Drake, Chairman