

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, July 24, 2003, at 10:00 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 Board approve the minutes for the regular meeting on July 10, 2003, and for the special meetings on June 25, June 26, and July 16, 2003 be approved. Board Member Verich seconded the motion. Chairman Drake called for the vote.

| | | | |
|-------|-------------------|--------------------|-------------------|
| Vote: | DRAKE <u>Aye</u> | GILLMOR <u>Aye</u> | VERICH <u>Aye</u> |
| | Affirmed <u>X</u> | Denied <u> </u> | |

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

There were no Mediation matters for this Board Meeting.

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 03-REP-05-0083 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Coshocton County Department of Job and Family Services, August 14, 2003

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The parties entered into a Consent Election Agreement seeking an election on August 14, 2003. Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on August 14, 2003. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

| | | | |
|-------|-------------------|--------------------|-------------------|
| Vote: | DRAKE <u>Aye</u> | GILLMOR <u>Aye</u> | VERICH <u>Aye</u> |
| | Affirmed <u>X</u> | Denied <u> </u> | |

2. Case 03-REP-05-0089 Warren Management Association and City of Warren

3. Case 03-REP-06-0112 Teamsters Local Union No. 637, IBT and City of Marietta

State Employment Relations Board Minutes
July 24, 2003
Page 2 of 19

4. Case 03-REP-07-0115 Ohio Patrolmen's Benevolent Association and City of Clayton

In Case 03-REP-05-0089, the Employee Organization is the Board-certified exclusive representative for certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Sewer Systems Superintendent, Environmental Services Manager, and Planning Coordinator, and to exclude Planning Director. The proposed amendment appears appropriate. In Case 03-REP-06-0112, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the certification to change the exclusive representative's name from Local No. 450 to Local No. 637, and to reflect current contract language. The proposed amendment appears to be appropriate. In Case 03-REP-07-0115, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect the Employer's name changed to the City of Clayton. The proposed amendment appears to be appropriate. Vice Chairman Gillmor moved that the Board approve the jointly filed petitions and amend the units and certifications accordingly. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

5. Case 03-REP-01-0006 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Jefferson County Water and Sewer District

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employer filed a Petition for Amendment of Certification and has now filed a motion to withdraw the petition. Board Member Verich moved that the Board grant the Employer's 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

State Employment Relations Board Minutes
July 24, 2003
Page 3 of 19

6. Case 03-REP-02-0027 Professional Association of Service and Support Administrators/OEA/NEA and Lake County Board of Mental Retardation and Developmental Disabilities

The Employee Organization is the Board-certified exclusive representative for certain employees of the Employer. On July 7, 2003, the Employee Organization filed a motion to revoke certification. The parties confirm no contract exists. Vice Chairman Gillmor moved that the Board grant the motion and revoke the Employee Organization's certification. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

7. Case 02-REP-04-0074 West Chester Professional Firefighters, IAFF, Local 3518 and West Chester Township, Butler County

- There were 6 ballots cast
- There were 0 challenged ballots
- No Representative received 2 votes
- West Chester Professional Firefighters, IAFF, Local 3518 received 4 votes and has prevailed in this election.

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

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

8. Case 03-REP-04-0075 Teamsters Local Union No. 507, IBT and Maple Heights Drivers Association and City of Maple Heights, August 12, 2003

The Rival Employee Organization filed an amended Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The parties have entered into a Consent Election Agreement seeking an election on August 12, 2003. Vice Chairman Gillmor moved that the Board approve the Consent Election Agreement and direct an election to be conducted on August 12, 2003. Board Member Verich seconded the motion. Chairman Drake called for the votes.

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

State Employment Relations Board Minutes
July 24, 2003
Page 4 of 19

9. Case 03-REP-04-0069 Professionals Guild of Ohio and Children Services of Richland County, August 6, 2003

Vice Chairman Gillmor moved that Case 03-REP-04-0069, be lifted from the Tabled Matters. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

On June 17, 2003, a conference call was conducted, resulting in a Consent Election Agreement with an August 6, 2003 election date. The Consent Election Agreement was mailed to each party on June 23, 2003, requesting return of the executed agreement by June 30, 2003. Because the parties did not execute the agreement prior to the July 10, 2003 SERB Board meeting, the case was tabled. Several follow-up conference calls have been conducted. The Employer seeks an alternative election date to accommodate a few employees in the unit who will be on maternity leave and scheduled vacations. The parties have not been able to agree on an alternative election date. On July 11, 2003, the Employee Organization filed an executed Consent Election Agreement seeking an August 6, 2003 election date. In an effort to preserve the parties original agreement, directing an August 6, 2003 election appears appropriate. Board Member Verich moved that the Board direct an August 6, 2003 election date per the specifications contained in the parties' original Consent Election agreement. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 5 of 19

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 02-ULP-07-0460 SERB v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 274

On July 1, 2002, the Charging Party filed an unfair labor practice against the Respondent. On November 26, 2002, the Board found probable cause to believe that the Respondent had committed an unfair labor practice charge, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation. On February 20, 2003, a hearing was held. On May 12, 2003, the Administrative Law Judge's Proposed Order was issued recommending that the Board find that the Respondent violated Ohio Revised Code § 4117.11(B)(3) by refusing to bargain because it believed the issue of subcontracting remained on the table. No exceptions were filed to the Proposed Order. Ohio Revised Code § 4117.11(B)(2) provides that if no exceptions are filed to a proposed order, then the proposed order becomes the order of the Board. Vice Chairman Gillmor moved that the Board amend Finding of Fact No. 10 by revising the second sentence to read: "If an insufficient number of bargaining-unit member custodians applied for the positions at the new high school, the Board of Education would transfer current bargaining-unit members in the custodial classifications to the open custodial positions at the new high school."; and that the Administrative Law Judge's Proposed Order become the order of the Board, pursuant to Ohio Revised Code § 4117.12(B)(2), since no exceptions were filed by any party. 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-ULP-02-0101 SERB v. Rock Hill Local School District Board of Education

On February 28, 2003, the Charging Party filed an unfair labor practice charge against the Respondent. On May 8, 2003, the Board found probable cause to believe that the Respondent had committed an unfair labor practice, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation. On July 1, 2003, the Respondent filed a motion for reconsideration of the finding of probable cause. Ohio Administrative Code Rule 4117-1-04(E) allows for the filing of a motion for reconsideration "no later than forty-five days after the issuance of the Board's final ruling." The Board's finding of probable cause is not a "final ruling." Board Member Verich moved that the Board deny the motion for reconsideration since the finding of probable cause is not a final ruling pursuant to Ohio Administrative Code Rule 4117-1-04(E). Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 6 of 19

3. Cases 02-ULP-06-0412 SERB v. Green Local School District
 02-ULP-09-0589 Board of Education

On July 10, 2002, the Charging Party filed an unfair labor practice charge ("Case No. 02-ULP-06-0412") against the Respondent. On September 19, 2002, the Board found probable cause to believe that the Respondent had violated Ohio Revised Code Sections 4117.11(A)(1) and (A)(5). On September 5, 2002, the Charging Party filed another unfair labor practice charge ("Case No. 02-ULP-09-0589") against the Respondent. On November 26, 2002, SERB determined that probable cause existed to believe the Respondent violated Ohio Revised Code Sections 4117.11(A)(1) and (A)(5). After a hearing in the first case, the parties agreed to waive hearing in the second case and submit it on the record in the first case and additional briefs. On May 12, 2003, the Proposed Order was issued addressing both charges. Vice Chairman Gillmor moved that the Board amend Finding of Fact No. 14 by revising the second sentence to read: "If an insufficient number of bargaining-unit member custodians applied for the positions at the new high school, the Board of Education would transfer current bargaining-unit members in the custodial classifications to the open custodial positions at the new high school."; adopt the Findings of Fact, as amended, and Conclusions of Law in the Proposed Order; issue an order to the Respondents to cease and desist from interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117, and refusing to bargain collectively with the exclusive representative, by unilaterally transferring bargaining unit work outside of the bargaining unit, and from otherwise violating Ohio Revised Code Sections 4117.11(A)(1) and (A)(5); and order the Respondent to (1) return the bargaining-unit work now performed by Building Care, Inc., by virtue of contracts executed 6-10-02 (temporary) and 8-20-02 (permanent), at Green Middle School, Green Intermediate School, Kleckner and Greenwood Schools to bargaining-unit members represented by the Ohio Association of Public School Employees/AFSCME Local 4 and its Local 274; (2) post for sixty days, in all the usual and normal posting locations where bargaining-unit employees work, the Notice to Employees (Case Nos. 02-ULP-06-0412, 02-ULP-07-0460, and 02-ULP-09-0589) furnished by the Board stating that the Green Local School District Board of Education and the Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 274 shall cease and desist from actions set forth in paragraph (A) and shall take the affirmative actions set forth in paragraph (B); and (3) notify the Board in writing within twenty calendar days from the date the Order becomes final of the steps that have been taken to comply therewith. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 7 of 19

4. Case 02-ULP-11-0760 SERB v. City of Cleveland, Division of Water
5. Case 01-ULP-02-0083 SERB v. City of Cleveland

Board Member Verich moved that the Board approve and adopt the settlement agreement, construe the settlement agreement as motions to withdraw or dismiss, grant all of the motions, dismiss the complaint, and dismiss with prejudice the unfair labor practice charges. Vice Chairman Gillmor 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. Cases 03-ULP-04-0226 Arthur Pilkington v. City of Cleveland and Mary Czaplicki
- 03-ULP-04-0227 Arthur Pilkington v. Service Employees International Union, Local 47 and Norma Harrison

In Case 03-ULP-04-0226, the unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (6), and (8) by failing to provide the Charging Party swipe card information. Information gathered during the investigation reveals the Charging Party requested the swipe card information after it had been automatically deleted from the computer. Additionally, the Charging Party failed to provide any information to support Ohio Revised Code § 4117.11(A)(6) and (8) violations occurred. In Case 03-ULP-04-0227, the unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to obtain the swipe card information. Information gathered during the investigation reveals the Charged Parties processed the Charging Party's request for the swipe card information and his grievance until it was determined the grievance lacked merit. The Charged Parties' actions were not arbitrary, discriminatory, or in bad faith. Additionally, the Charging Party failed to provide any information to support that an Ohio Revised Code § 4117.11(B)(1) violation occurred. Vice Chairman Gillmor 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. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 8 of 19

2. Case 03-ULP-05-0267

Communications Workers of America,
Local 4527 and David Ankrom v.
Jefferson County Engineer and James
Branagan

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (2) by Mike Chichick interfering with Union Steward David Ankrom when he was engaging in protected activity, and the union's right to conduct business. Information gathered during the investigation reveals Mike Chichick supported Scott Fabian for Union Steward over David Ankrom and did interfere with the Charging Party conducting its business. 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, refer the matter to hearing to determine if the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (2) by Mike Chichick interfering with Union Steward David Ankrom when he was engaging in protected activity and the Union's right to conduct business, 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

3. Case 03-ULP-03-0109

Teresa Floyd v. Greater Cleveland
Regional Transit Authority

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (5), and (8) by terminating the Charging Party's employment for engaging in protected activities, and by unreasonably delaying requested information related to her grievance. Information gathered during the investigation reveals the Charging Party was terminated for reasons other than engaging in protected activities. 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

State Employment Relations Board Minutes
July 24, 2003
Page 9 of 19

4. Case 03-ULP-03-0110 Teresa Floyd v. Amalgamated Transit Union, Local 268

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to properly process the Charging Party's grievances, and failing to take her grievances to arbitration. Information gathered during the investigation reveals that the Charging Party was represented at each step of the grievance process. The decision not to take the grievances to arbitration was based on the merits. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Knowledge of the alleged violation pertaining to the events occurring prior to December 3, 2002, 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 for events occurring prior to December 3, 2002. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

5. Case 03-ULP-03-0149 Fayetteville-Perry Classified Employees' Association, OEA/NEA and James Johnson v. Fayetteville-Perry Local Schools

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by engaging in a pattern of conduct to retaliate against an employee because of his participation in union activity. Information gathered during the investigation reveals Mr. Johnson was disciplined for reasons other than protected activity. 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

6. Case 03-ULP-03-0157 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Rehabilitation and Correction, Richland Correctional Institution

Board Member Verich moved that this case be tabled to the next meeting on August 7, 2003. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 10 of 19

7. Case 03-ULP-04-0169 Fairborn Professional Fire Fighters Association, Local 1235, IAFF v. City of Fairborn and Chief Rudy Weyland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (5), and (8) by altering the bargaining unit by creating the new position of Administrative Assistant. Information gathered during the investigation reveals the Charged Parties appear to have unilaterally changed the bargaining unit. 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 Parties violated Ohio Revised Code § 4117.11(A)(1), (5), and (8), but not (A)(3), by altering the bargaining unit by creating the new position of Administrative Assistant, 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

8. Cases 03-ULP-04-0206 Christina Popio v. State of Ohio, Department of Development, Ohio Housing Finance Agency
03-ULP-04-0230 Christina Popio v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

In Case 03-ULP-04-0206, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by promoting another employee over the Charging Party in violation of the collective bargaining agreement. Information gathered during the investigation reveals the Charging Party was not engaged in any protected activity. Additionally, the Charged Party did not interfere with, restrain, or coerce the Charging Party. In Case 03-ULP-04-0230, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by refusing to recognize grieved contract rights, postponing the grievance hearing, refusing to recognize private counsel, and by admonishing the Charging Party because of her private counsel. Information gathered during the investigation reveals the Charged Party represented the Charging Party at the grievance hearing. Not permitting private counsel to represent the Charging Party is not a violation. Additionally, the Charging Party failed to provide any information to support that an Ohio Revised Code § 4117.11(B)(2) violation occurred. 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

State Employment Relations Board Minutes
July 24, 2003
Page 11 of 19

9. Case 03-ULP-04-0209 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO v. City of Columbus

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing midterm changes in the work days, locations, and hours of the custodians within the Department of Recreation and Parks. Information gathered during the investigation reveals the Charged Party bargained the subjects to impasse. The Charging Party refused to budge on any proposal. Additionally, the Charged Party acted 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

10. Case 03-ULP-04-0212 Phillip Dore v. City of Lorain

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by repudiating the collective bargaining agreement, the statutory dispute resolution procedure, and failing to designate a bargaining representative with authority. The Charged Party filed a motion to dismiss. Information gathered during the investigation reveals no violation occurred because the legislative body never approved the negotiated memorandum of understanding. Additionally, knowledge of the alleged bad-faith bargaining 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 as it pertains to negotiations as opposed to the planned termination, and deny the Charged Party's motion as moot. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

11. Case 03-ULP-04-0176 General Truck Drivers and Helpers Local Union No. 92 v. City of Alliance

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by refusing to comply with a grievance settlement agreement. Information gathered during the investigation reveals the Charging Party originally rejected the settlement and did not timely process the grievance. 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

State Employment Relations Board Minutes
July 24, 2003
Page 12 of 19

12. Case 03-ULP-05-0240 Fraternal Order of Police, Capital City Lodge No. 9 and Sergeant Kevin Thatcher v. Blendon Township Board of Trustees (Franklin County)

Board Member Verich moved that the Board construe Paragraph 2 of the settlement agreement as a motion to withdraw the charge, and grant the motion with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

13. Case 03-ULP-03-0162 Fraternal Order of Police, Ohio Labor Council, Inc. v. Hamilton County Sheriff's Office and Simon L. Leis, Jr.

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally issuing new policies and procedures with respect to performance evaluation ratings. Information gathered during the investigation reveals this unfair labor practice charge is a duplicate filing of Case No. 03-ULP-03-0100. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as being a duplicate filing. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

14. Cases 03-ULP-05-0235 Janice M. Stewart v. Summit County Board of Mental Retardation and Developmental Disabilities and Greg Maras
- 03-ULP-05-0236 Janice M. Stewart v. Summit County Board of Mental Retardation and Developmental Disabilities and Tom Moran
- 03-ULP-05-0237 Janice M. Stewart v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Gino Carbenia
- 03-ULP-05-0238 Janice M. Stewart v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Cheri Nice

State Employment Relations Board Minutes
July 24, 2003
Page 13 of 19

03-ULP-05-0239

Janice M. Stewart v. Ohio Council 8,
American Federation of State,
County and Municipal Employees,
AFL-CIO and Karen White

In Cases 03-ULP-05-0235 and 03-ULP-05-0236, the unfair labor practice charges allege the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by violating the Charging Party's seniority rights. Information gathered during the investigation reveals the Charged Parties' decision not to grant the Charging Party's seniority was based on contract interpretation and was not due to the exercise of guaranteed rights. In Cases 03-ULP-05-0237, 03-ULP-05-0238, and 03-ULP-05-0239, the unfair labor practice charges allege the Charged Parties violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by failing to fairly represent the Charging Party in maintaining her seniority rights. Information gathered during the investigation reveals the Charged Parties' actions were not arbitrary, discriminatory, or in bad faith because their contract interpretation is different from Charging Party's interpretation. 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 __

15. Case 03-ULP-04-0200

Mary Jane Golias v. Stow-Munroe Falls
Classified Employees Association

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by obtaining classification upgrades for Class IV Secretarial/Clerical Department employees, except the Charging Party because an arbitrator ruled in her favor and against the Secretarial/Clerical Department negotiator Elizabeth Longhitano. Information gathered during the investigation reveals the Charged Party failed to explain why the Charging Party's position was different from all the other upgraded positions. 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, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by arbitrarily negotiating a salary upgrade for all Class IV employees in the Secretarial/Clerk Department, except the Charging Party because she benefited from a grievance pursued and lost at arbitration by the Charged Party and its Secretarial/Clerk negotiator, 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 __

State Employment Relations Board Minutes
July 24, 2003
Page 14 of 19

16. Case 03-ULP-04-0220 Fraternal Order of Police, Ohio Labor Council, Inc. v. Multi-County Correctional Center

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (2) by allowing the rival union, Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, to conduct meetings on the Charged Party's property with the Charging Party's unit employees while a Petition for Representation Election was pending for the unit. Information gathered during the investigation reveals no evidence the alleged meetings were held on the Charged Party's premises. 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

17. Case 03-ULP-04-0201 International Union of Police Associations, Local 32, AFL-CIO v. City of Upper Sandusky and Mark J. Ellis

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (7) by bargaining in bad faith. Information gathered during the investigation reveals the Charging Party and the Charged Parties are not parties to a contract that requires the Charged Parties to pay employees while they are negotiating a collective bargaining agreement. Additionally, no information was provided to support that Ohio Revised Code § 4117.11(A)(2) and (7) 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 Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 15 of 19

18. Case 03-ULP-04-0183 Hamilton County Sheriff's Office v. Fraternal Order of Police, Ohio Labor Council, Inc.

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) by attempting to cause the Charging Party to bargain in bad faith. Information gathered during the investigation reveals the Charged Party's action of requesting a labor-management meeting does not amount to an unfair labor practice. 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

19. Case 03-ULP-04-0190 Cleveland Police Patrolmen's Association v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by its continuing failure to adhere to the parties' agreement. Information gathered during the investigation reveals the matter is strictly contractual, and no violation of the statute 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

20. Case 03-ULP-04-0198 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 3956, AFL-CIO v. Mahoning County Clerk of Courts and Anthony Vivo

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to negotiate wages without the requirement to renegotiate health insurance despite the ground rule removing the insurance issue from bargaining. Information gathered during the investigation reveals the Charged Parties' refusal to negotiate wages without opening the health issue does not amount to bad-faith bargaining under the circumstances of this charge. 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 Parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 16 of 19

21. Case 03-ULP-03-0124 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Deer Park

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (4) by harassing, discriminating, and retaliating against Lt. William Jefferies for engaging in protected activities, and because it blamed him for the current status of negotiations. Information gathered during the investigation reveals the Charged Party's actions were for reasons other than Lt. Jefferies engaging in protected activities. 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

22. Case 03-ULP-05-0253 Professionals Guild of Ohio v. Taylor Memorial Public Library, Summit County

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally removing the Automated Systems Manager from the bargaining unit, and renaming it Technological Manager and declaring it to be outside the bargaining unit. Information gathered during the investigation reveals the charge is untimely filed. Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
July 24, 2003
Page 17 of 19

23. Case 02-ULP-11-0717 Stryker Education Association, OEA/NEA v. Stryker Local School District Board of Education

On February 13, 2003, the Board dismissed the charge with prejudice for lack of probable cause to believe that an unfair labor practice had been committed by the Charged Party. On March 11, 2003, the Charging Party filed a motion for reconsideration of the charge. New information was provided that demonstrated the teacher-student contact time was increased by 100 to 120 minutes per week. Vice Chairman Gillmor moved that the Board grant the Charging Party's motion for reconsideration, find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing terms and conditions of employment, 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 __

24. Case 02-ULP-11-0787 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 274 v. Green Local School District Board of Education

25. Case 02-ULP-11-0737 Newton Falls Classroom Teachers Association v. Newton Falls Exempted Village Schools

Board Member Verich moved that the Board deny the Charging Parties' motions for reconsideration with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

26. Case 03-ULP-05-0259 Harvey Joseph Bryant, Sr. v. City of Akron

27. Case 03-ULP-05-0266 Todd A. Strouse v. Cuyahoga County Board of Commissioners

State Employment Relations Board Minutes
July 24, 2003
Page 18 of 19

28. Case 03-ULP-04-0229 Jennifer L. Beck-Owen v. Lucas County Board of Mental Retardation and Developmental Disabilities

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice because the Charging Parties failed to pursue the matters. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

29. Case 03-ULP-06-0349 Communications Workers of America, Local 4530 v. University of Toledo
30. Case 02-ULP-03-0199 National Conference of Firemen and Oilers, Local 777 v. Cleveland City School District Board of Education
31. Case 03-ULP-03-0131 United Steelworkers of America, Local 1949, AFL-CIO-CLC v. City of Marion
32. Case 03-ULP-06-0296 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 208 v. Amherst Exempted Village School District Board of Education
33. Case 03-ULP-04-0181 Douglas Mitchell v. City of Cleveland

Board Member Verich moved that the Board, in Case No. 02-ULP-03-0199, construe the letter of reconsideration as a motion for reconsideration, grant the motion for reconsideration, and construe the letter requesting withdrawal of the charge as a motion to withdraw, and grant the motion with prejudice; and in the remaining cases, construe the letters and settlement 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

State Employment Relations Board Minutes
July 24, 2003
Page 19 of 19

VI. ADMINISTRATIVE MATTERS

Chairman Drake mentioned she will be attending the ALRA Conference in Detroit, Michigan. Chairman Drake will be a participant in one of the panels as a newly appointed Board Member for a state agency. Chairman Drake mentioned that Tom Worley, SERB's Mediator, is also running for re-election on the ALRA Board as a Vice President in Administration, and she wishes him luck.

Vice Chairman Gillmor moved that the Board go into executive session, pursuant to Ohio Revised Code Section 121.22(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

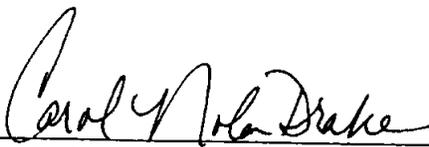
Vice Chairman Gillmor moved that the Board hire Patricia E. Snyder as Executive Director (Classification No. 61621) in the unclassified service at the annual salary of \$83,000.00, subject to all state requirements for hire, including successful background check and drug testing. Board Member Verich seconded the motion. Chairman Drake thanked the Board members for working with her through the interview and selection process, and then called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

VI. 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, Chairman