

State Employment Relations Board
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III. REPRESENTATION MATTERS AT ISSUE:

1. Case 04-REP-10-0199 Ohio Patrolmen's Benevolent Association and City of South Euclid

The Employee Organization filed an amended Request for Recognition. The substantial evidence is sufficient. No objections have been filed. The Employer has complied with the posting requirements. 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 04-REP-08-0145 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Mt. Healthy

The Employee Organization filed a Request for Recognition. The Employer responded by filing a Petition for Representation Election and objections. The case was directed to hearing to determine an appropriate bargaining unit. As a result of mediation, the parties have executed a Settlement Entry resolving all issues. Board Member Verich moved that the Board construe the parties' Settlement Entry as a motion to withdraw the Employer's Petition for Representation Election and objections, grant the motion, and certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

3. Case 04-REP-08-0143 Ohio Patrolmen's Benevolent Association and Jefferson County Sheriff

The Employee Organization filed an Opt-in Request for Recognition. The Employer responded by filing objections. The Employee Organization has now filed a Motion to Withdraw the request. Vice Chairman Gillmor moved that the Board grant the Employee Organization's motion and dismiss without prejudice the Request for Recognition. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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4. Case 05-REP-03-0044 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Portage Area Regional Transit Authority

The Employee Organization filed a Request for Recognition. The Employer responded by filing objections and a Motion to Dismiss. The Employee Organization filed a letter withdrawing the request. 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 Request for Recognition and deny the Employer's Motion to Dismiss as moot. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

5. Case 05-REP-05-0074 United Steelworkers of America, AFL-CIO, CLC and Fairfield County
August 18, 2005

6. Case 05-REP-01-0012 Fraternal Order of Police, Ohio Labor
05-REP-06-0085 Council, Inc. and City of Blue Ash
August 31, 2005

Vice Chairman Gillmor moved that the Board approve the Consent Election Agreements and direct elections to be conducted on dates indicated. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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7. Case 04-REP-08-0132 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Orange City School District Board of Education
September 13, 2005

On February 10, 2005, the Board directed this case to hearing to determine an appropriate bargaining unit, and directed the parties to mediation. On February 28, 2005, the Employer filed a Motion for Reconsideration. The Board denied the Employer's motion on May 5, 2005. As a result of mediation, the parties have executed a Settlement Agreement and entered into a Consent Election Agreement seeking an election on September 13, 2005. Board Member Verich moved that the Board approve the Settlement Agreement and Consent Election Agreement executed by the parties, and direct an election to be conducted on September 13, 2005. Vice Chairman Gillmor seconded the motion. Chairman Drake commented that she was pleased that the mediation effort was successful. Chairman Drake called for the vote.

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

8. Case 04-REP-01-0002 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Youngstown

The Employee Organization filed a Petition for Representation Election. The Employer responded by filing objections. The case was directed to hearing. As a result of mediation, the parties have executed a Settlement Agreement withdrawing the instant petition. Vice Chairman Gillmor moved that the Board construe the Settlement Agreement as a Motion to Withdraw, grant the motion and dismiss without prejudice the Petition for Representation Election. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

9. Case 05-REP-06-0080 Fairbanks Education Association, OEA/NEA and Fairbanks Local School District Board of Education
10. Case 05-REP-06-0082 East Liverpool Education Association, OEA/NEA and East Liverpool City School District Board of Education
11. Case 05-REP-06-0096 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Streetsboro

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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 04-ULP-09-0504 Lorain City Schools Association of
Classified Personnel, OEA/NEA v. Lorain
City School District Board of Education

The Charging Party filed a motion requesting the charge be withdrawn because the matter had been resolved through the assistance of mediation. Board Member Verich moved that the Board grant the motion, and dismiss the unfair labor practice charge with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Case 04-ULP-07-0428 Massillon Fraternal Order of Police,
Henderson Lodge Police Officer's
Association v. City of Massillon

3. Case 04-ULP-09-0539 Auglaize County Sheriff v. Ohio
Patrolmen's Benevolent Association

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

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

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4. Case 02-ULP-08-0522 SERB v. Southwest Ohio Regional Transit Authority (SORTA)

This ULP case was transferred to the Board from the Hearings Section on April 24, 2003, upon the parties' agreement 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 14, 2003.

The issue is whether SORTA's unilateral implementation of revisions to its Drug and Alcohol Policy without bargaining as to the bargaining-unit employees constitutes an unfair labor practice in violation of O.R.C. §§ 4117.11(A)(1) and (A)(5).

Board Member Verich moved that the Board (1) adopt the parties' Joint Stipulations as Findings of Fact; (2) conclude as a matter of law that SORTA is a "public employer" within the meaning of O.R.C § 4117.01(B), that the Amalgamated Transit Union, Local 627, Intervenor, is an "employee organization" within the meaning of O.R.C.§ 4117.01(D) and that unilateral changes to the Drug and Alcohol Policy without bargaining as to bargaining-unit employees do not constitute an unfair labor practice in violation of O.R.C. §§ 4117.11(A)(1) and (A)(5); and (3) dismiss the Complaint with prejudice. Opinion to follow. 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. Case 04-ULP-12-0666 Barbara Jean Cole v. Ohio Civil Service Employees Association Chapter 1320, President Margaret Edwards, and Vice President Julie Vest

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by writing the Charging Party up claiming she made excessive phone calls while on duty. The investigation reveals the Charged Parties' officials were required to submit statements during an investigation regarding the alleged Charging Party's disruptive phone calls during duty hours. No evidence was provided to support the Charged Parties' actions were 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 Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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4. Case 05-ULP-04-0175 International Association of Fire Fighters,
Local 1144 v. City of Bay Village

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (5) by refusing to adhere to the SERB appointed conciliator's award regarding payment of retroactive wages. The investigation reveals the parties were working on health care deductions from the back wages. The back wages were paid. The Charged Party's actions do not amount to bad faith bargaining. 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

5. Case 05-ULP-04-0211 Avon Lake Public Library v. Service
Employees International Union, District 1199

6. Case 05-ULP-04-0212 Avon Lake Public Library v. Service
Employees International Union, District 1199

Vice Chairman Gillmor moved that the Board construe the Charging Party's letter as a motion to withdraw, grant the motion and dismiss the charges without 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 05-ULP-04-0184 Continental Education Association,
OEA/NEA v. Continental Local 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 failing or refusing to bargain in good faith over mandatory terms and conditions of employment. The investigation reveals the parties have entered into negotiations. 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

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8. Case 05-ULP-04-0186 Miriam Maldonado v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to reinstate the Charging Party's seniority with the Youngstown 911 Center. The investigation reveals the charge is untimely. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice 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 _____

9. Case 05-ULP-03-0146 William Francis Helton, Jr. v. City of St. Bernard

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1), (5), (6), and (8) by bargaining in bad faith with the union, coercing the union into making further concessions causing the union to commit a violation, which resulted in the layoff of the Charging Party, and by bargaining an addendum to the agreement that violated Ohio Revised Code 4117. The investigation reveals no evidence the union was coerced in an attempt to cause it to commit a violation, nor that the Charged Party bargained in bad faith. No grievances were filed so no Ohio Revised Code § 4117.11(A)(6) violation was substantiated. The addendum was negotiated by the union in the best interests of the entire bargaining unit. The Charged Party's interpretation of the addendum may not be the same as the union's or that of an arbitrator. 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 _____

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10. Case 04-ULP-12-0679 Service Employees International Union,
District 1199 v. Cleveland Public Library

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (5) by unilaterally changing work schedules, lunch hours, and eliminating one shift. The investigation reveals the library dealt directly with bargaining-unit employees to unilaterally change a past scheduling practice which affected the hours, terms or conditions of employment. 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(A)(1) and (5) by unilaterally changing work schedules, lunch hours, and eliminating one shift after dealing directly with bargaining-unit employees, 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

11. Case 04-ULP-12-0681 Jayson L. Hollstein v. State of Ohio,
Department of Rehabilitation and
Correction, Marysville Reformatory

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by the State's Investigator intimidating the Charging Party during an investigatory interview, which caused the Charging Party to resign. The investigation reveals the Charging Party was represented by the union and had his options explained to him before the Charging Party decided to resign on his own volition. 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

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12. Case 04-ULP-12-0682 Jayson L. Hollstein v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

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 at an investigatory interview. The investigation reveals the Charging Party was represented by a trained, certified union steward. No information was provided to substantiate the Charged Party violated the statute or its actions were 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 _____

13. Case 04-ULP-12-0714 Robert E. White 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 appeal the arbitration decision on the Charging Party's grievance. The investigation reveals the Charged Party reviewed the arbitration decision and did not find any errors. No information was provided to show the Charged Party's actions were arbitrary, discriminatory or in bad faith. The Charging Party knew the Charged Party would not appeal the arbitration decision in August 2004. The charge is 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

14. Case 04-ULP-12-0720 Canton Police Patrolman's Association v. City of Canton and Dean McKimm

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code §§ 4117.11(A)(1) and (2) by meeting with a bargaining-unit employee without representation concerning the employee's pending termination grievance. The investigation reveals there was insufficient evidence provided to show the Charged Parties interfered with, restrained, or coerced the employee in exercising his guaranteed rights. The meeting was voluntary and no threat was made. The Charged Party did not interfere with the administration of the Charging Party. 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.

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

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19. Case 05-ULP-04-0197 Huron Education Association, OEA/NEA v. Huron City 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 failing to bargain in good faith. The investigation reveals the Charging Party failed to show how it was impaired in preparing for negotiations. The information was publicized before the parties entered negotiations. 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 _____

20. Case 05-ULP-05-0242 Huron Education Association, OEA/NEA v. Huron City School District Board of Education

Vice Chairman Gillmor moved that the Board table this matter. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

21. Case 05-ULP-04-0227 Alisa Blair-Tucker v. International Brotherhood of Teamsters, Local 244

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(B)(1) and (6) by failing to allow the Charging Party to join the union. The investigation reveals the Charging Party failed to sign up for dues deduction in a timely manner. 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 _____

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22. Case 05-ULP-05-0235 Salem Fire Fighters, International Association of Firefighters Local 283 v. City of Salem

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (5) by bargaining in bad faith. It appears from the investigation that the Charged Party did not engage in good faith bargaining. 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(A)(1) and (5) by bargaining in bad faith. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

23. Case 05-ULP-04-0214 Fraternal Order of Police, Ohio Labor Council, Inc. v. Clinton County Sheriff

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (3) by terminating Deputy Stephanie Bivens in retaliation for her exercise of guaranteed rights. The investigation reveals Deputy Bivens was terminated for reasons other than engaging in protected activities. 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 _____

24. Case 05-ULP-04-0215 Wendy Clinkscale, et al. v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 3577 and President Jeanette Droney

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent all employees in the bargaining unit. The investigation reveals the Charged Parties' actions regarding the reduced work week 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 Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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29. Case 05-ULP-03-0157 Canton Police Patrolman's Association v. City of Canton

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1), (2) and (4) by not allowing the Charging Party's President John Miller to reschedule an interview so he could be represented by his union attorney during an Internal Affairs interview. The investigation reveals President Miller had his union representative present for the questioning. The meeting, however, was cancelled and held later, and the Charging Party had his union representative and attorney present at that time. Additionally, insufficient evidence was provided to substantiate the statute was violated. 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

30. Case 04-ULP-11-0647 Mary Lou Dunn v. Fraternal Order of Police, Ohio Labor Council, Inc.

31. Case 05-ULP-01-0010 National Conference of Firemen and Oilers, Local 777 v. Cleveland Municipal School District Board of Education

32. Case 05-ULP-01-0039 Earl Murry v. American Association of University Professors-Toledo University

Vice Chairman Gillmor moved that the Board construe the requests as motions for reconsideration and deny all motions with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

33. Case 05-ULP-06-0372 Sheffield-Sheffield Lake Teachers Association v. Sheffield-Sheffield Lake City School District Board of Education

Board Member Verich moved that the Board grant the motion to withdraw with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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34. Case 05-ULP-04-0209 Christina Barker v. Gina Meggyesy, AVTA Executive Board

Vice Chairman Gillmor moved that the Board construe the letter as a motion to withdraw and grant the motion without prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

35. Case 05-ULP-06-0304 Ohio Patrolmen's Benevolent Association v. Ashland County Sheriff

36. Case 05-ULP-05-0243 International Brotherhood of Firemen and Oilers Local 200 and Larry Wallace v. Shaker Heights City School District Board of Education

Board Member Verich moved that the Board construe the letters and notices 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 _____

37. Case 04-ULP-11-0662 United Steelworkers of America, Local 9187 v. Stark County Department of Job and Family Services

38. Case 04-ULP-12-0675 Barbara Jean Cole v. State of Ohio, Department of Mental Retardation and Developmental Disabilities, Fred William, Elmer Kaising, and Greg Meyer

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice because the Charging Parties have 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 _____

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Case 05-ULP-04-0194

Ohio Association of Public School
Employees, AFSCME Local 4, AFL-CIO v.
Dayton City 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 displacing the bargaining unit, by awarding bargaining unit work to employees outside the bargaining unit, and by failing to remedy and the improper displacement of unit employees. The investigation reveals the allegations regarding the actions of unilaterally displacing the bargaining unit and awarding bargaining unit work to employees outside of the bargaining unit were untimely filed. However, by failing to remedy an admitted contract violation, it appears the Charged Party engaged in bad faith bargaining. 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 Party violated Ohio Revised Code §§ 4117.11(A)(1) and (5) by failing to provide a remedy to the situation of displacing the bargaining unit and awarding bargaining-unit work to employees outside of the bargaining unit, dismiss the remaining allegations as untimely, 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

Petition for Administrative Hearing
Municipal Construction Equipment Operators' Labor Council, Petitioner
(2002-REP-06-0116)

Vice Chairman Gillmor moved that the Board go into executive session pursuant to O.R.C. § 121.22(G)(3) for a conference with attorneys from the Ohio Attorney General's Office concerning disputes that are the subject of imminent court action. Board Member Verich seconded the motion. Chairman Drake called for the roll-call vote.

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

The Board went into executive session at 10:55 a.m.

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

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

VII. ADMINISTRATIVE MATTERS

Fiscal Year '06 Budget Overview

Executive Director Snyder reported that Sandy Stiffler has prepared an overview comparing OBM's projections of SERB FY '06 expenses with actual costs. Projections were higher than actual costs for health care costs and the building lease. Actual costs were approximately \$112,000 less than the projected costs.

Annual Report

Executive Director Snyder reported that the annual report is coming along. A copy of the proposed cover was distributed. Vice Chairman Gillmor suggested a change to the cover, and will be sent a proposed alternative cover.

Dale Zimmer

Board Member Verich moved that the Board (1) grant Dale Zimmer's request to be demoted voluntarily into the vacant Labor Relations Mediator position at an hourly rate of \$37.57, which represents the highest step of Pay Range 15, plus eight years' longevity, and that his primary responsibility be the mediation of labor disputes in Northeastern Ohio, except as needs of the Bureau dictate otherwise as determined by the Bureau Administrator (2) withdraw the posting for Labor Relations Mediator; (3) that Dale Zimmer be named Acting Administrator; (4) and grant him a retroactive increase of 4% commencing with the July 1, 2005 pay period; and (5) post the position of Labor Relations Administrator. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

Board Member Verich moved to table the Petition for Administrative Hearing. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

Vice Chairman Gillmor moved that the Board go into executive session to discuss the employment of public employees pursuant to Ohio Revised Code § 121.22(G)(1). Board Member Verich seconded the motion. Chairman Drake called for the roll-call vote.

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 vote.

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

