

State Employment Relations Board
Board Meeting Minutes
November 22, 2005

The State Employment Relations Board met on Thursday, November 3, 2005, at 10:12 a.m., at 65 East State Street, Columbus, Ohio. Present at the meeting were Vice Chairman Gillmor and Board Member Verich.

I. APPROVAL OF MINUTES OF THE PREVIOUS REGULAR MEETING:

Board Member Verich moved that the Board approve the minutes for the previous meeting. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

APPROVAL OF MINUTES OF THE NOVEMBER 8, 2005 SPECIAL MEETING:

Board Member Verich moved that the Board approve the minutes for the November 8, 2005 Special Meeting. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

There were no Mediation matters.

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-01-0003 General Truck Drivers and Helpers Union
Local No. 92 and Lawrence County
Treasurer

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

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

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In Case No. 05-REP-10-0154, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect certain negotiated changes.

Board Member Verich moved that the Board approve the jointly filed petitions and amend the units accordingly. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

8. Case 05-REP-09-0143 International Brotherhood of Teamsters,
Local 416 and City of Broadview Heights

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 Representation Election. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

9. Case 04-REP-12-0224 Ohio Association of Public School
Employees(OAPSE)/ AFSCME Local 4,
AFL-CIO and Tri-Valley Local School
District Board of Education

The Employee Organization is the deemed-certified exclusive representative of certain employees of the Employer. The Employer filed a Petition for Amendment of Certification seeking to amend the existing unit to exclude Head Cook and Campus Custodian. The Employee Organization responded by filing a Motion to Dismiss opposing the exclusions.

Ohio Administrative Code Rule 4117-5-01(F) stated that a petition for amendment of a deemed-certified unit may be filed only during the window period, after a contract expires, or at any time if submitted by mutual request of the parties (prior to the January 1, 2005 rule change). The Board will only consider the amendment if it is not opposed. Board Member Verich moved that the Board grant the Employee Organization's motion and dismiss without prejudice the Employer's Petition for Amendment of Certification. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

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10. Case 05-REP-10-0155 Teamsters Local Union No. 637 and Licking County Engineer's Office

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 and called for the vote.

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

11. Case 05-REP-03-0038 Ohio Patrolmen's Benevolent Association and City of Aurora

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing objections. A conference call was conducted. The parties could not reach an agreement concerning an appropriate bargaining unit. Board Member Verich moved that the Board direct the 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 and called for the vote.

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

12. Case 05-REP-07-0107 Fraternal Order of Police, Ohio Labor Council, Inc. and Tuscarawas County Sheriff

The Employee Organization filed an Opt-In Request for Recognition seeking to represent certain employees of the Employer and add them to an existing bargaining unit. The Employer responded by filing objections. A conference call was conducted for the purpose of executing a consent election agreement. The parties could not reach an agreement concerning an appropriate bargaining unit. Board Member Verich moved that the Board direct the 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 and called for the vote.

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

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16. Case 05-REP-07-0101 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Cardington-Lincoln Local School District Board of Education

- There were 49 ballots cast
- There were 0 challenged ballots
- No Representative received 17 votes
- Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO received 32 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 bargaining unit. Vice Chairman Gillmor seconded the motion and called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 04-REP-11-0216 Teamsters Local 377 and Springfield Township, Mahoning County

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, finding that neither the Road Superintendent nor the Assistant Road Superintendent is a "supervisor" within the meaning of Ohio Revised Code § 4117.01(F), a "confidential employee" within the meaning of O.R.C. § 4117.01(K), or a "management level employee" within the meaning of O.R.C. § 4117.01(L); that the petitioned-for unit is the "unit appropriate for purposes of collective bargaining" within the meaning of O.R.C. § 4117.06; and that the Board direct an election in the petitioned-for bargaining unit at a date and time to be determined by the Representation Section in consultation with the parties. Vice Chairman Gillmor seconded the motion and called for the vote.

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

2. Case 03-ULP-07-0378 SERB v. Huron City School District Board of Education

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Proposed Order, finding that the Respondent has complied with the settlement agreement entered into in this matter, and dismiss the Direction to Show Cause Hearing. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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3. Case 04-ULP-06-0343 SERB v. Warren County Sheriff

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Proposed Order, finding that the Respondent violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5), and issue a cease and desist order with a Notice to Employees ordering the Respondent to: (1) return the bargaining-unit work now performed by Transcor America, Inc. or any other private entity to the unit represented by the Warren County Deputy Sheriff's Benevolent Association; (2) post the Notice to Employees furnished by the Board for sixty days in all the usual and normal posting locations where bargaining-unit employees represented by the Warren County Deputy Sheriff's Benevolent Association work; 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. Vice Chairman Gillmor seconded the motion and called for the vote.

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

4. Case 05-ULP-06-0326 Fraternal Order of Police, Ohio Labor Council, Inc. v. Summit County Executive

Board Member Verich moved that the Board grant the motion to withdraw and dismiss with prejudice the unfair labor practice charge. Vice Chairman Gillmor seconded the motion and called for the vote.

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

5. Case 04-ULP-12-0694 Columbiana Local Association of School Support v. Columbiana Exempted Village School District Board of Education

Board Member Verich moved that the Board construe the Charging Party's withdrawal as a motion to withdraw, grant the motion, and dismiss with prejudice the unfair labor practice charge. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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6. Case 04-ULP-12-0707 SERB v. Toledo-Lucas County Port Authority
7. Case 04-ULP-06-0295 SERB v. Parma City School District Board of Education

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

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Cases 05-ULP-05-0283, Robin Barnes, et al. v. Ohio Council 8,
05-ULP-05-0285 through American Federation of State, County and
05-ULP-05-0287 Municipal Employees, Local 3360

The Charging Parties allege the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by failing to fairly represent the Charging Parties when their positions were eliminated. The investigation revealed the parties continue to be represented through the grievance-arbitration process. Insufficient evidence was provided to show the Charged Party's actions were arbitrary, discriminatory, or in bad faith. The matter is strictly contractual.

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 Party. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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2. Case 05-ULP-09-0486 Marie S. Persin v. Ohio Civil Service
Employees Association, AFSCME
Local 11, AFL-CIO

The Charging Party alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by restraining or coercing her in the exercise of guaranteed rights. The investigation reveals the Charged Party's actions were in accordance with its constitution and bylaws. Insufficient evidence was provided to show that the Charged Party's actions were 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 and called for the vote.

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

3. Case 05-ULP-06-0363 Kimberly J. Rudolph v. City of Cleveland,
Division of Police

The Charging Party alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (8) by interfering with the Charging Party's rights and/or causing the employee organization to violate the statute. The investigation reveals the Charging Party failed to provide information to support a violation of the statute. Additionally, alleged violations occurring more than 90 days prior to the filing of the charge are untimely filed.

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 and called for the vote.

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

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8. Case 05-ULP-07-0427 International Brotherhood of Teamsters,
Local 24 v. Brimfield Township, Portage
County

The Charging Party alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by interfering with, restraining, and coercing Union Steward Roland Hoover for the exercise of his guaranteed rights. The investigation reveals the Charged Party refused to arbitrate the arbitrability of the grievance, threatened him, and sent him home without pay when he refused to withdraw this grievance.

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 (3), by threatening Roland Hoover and sending him home without pay for the final 1.5 hours of his shift when he refused to withdraw his grievance, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

9. Case 05-ULP-05-0262 Ohio Association of Public School
Employees, AFSCME Local 4, AFL-CIO
and Its Local 012 v. Gallia County Board of
Mental Retardation and Developmental
Disabilities

The Charging Parties allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally changing a term and condition of employment. The investigation reveals the Charged Party's actions interfered with, restrained, or coerced the bargaining-unit employees. Since the employees have not been harmed, the Ohio Revised Code § 4117.11(A)(3) allegation is premature. Insufficient evidence was provided to support the Ohio Revised Code § 4117.11(A)(5) allegation.

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), but not (3) and (5), by threatening to exclude the bargaining-unit members from receiving the \$1,000 insurance incentive given to nonbargaining-unit employees, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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14. Case 05-ULP-08-0465 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO Local 2197 v. City of Waverly

The Charging Party alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by interfering with, restraining, and coercing Sergeant Ray Newman in the exercise of his guaranteed rights. The investigation reveals the Charged Party has retaliated against Sergeant Newman as the president of the union, and singled him out for locker/restroom cleaning duty. No harm arising to the level of an Ohio Revised Code § 4117.11(A)(3) 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, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (3), by retaliating against Sgt. Ray Newman for the exercise of his guaranteed rights, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

15. Case 05-ULP-07-0418 Warrensville Education Association, OEA/NEA v. Warrensville Heights City School District Board of Education

The Charging Party 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 Charged Party did negotiate in good 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 and called for the vote.

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

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16. Case 05-ULP-07-0392 George O'Neil v. Ohio Association of Public School Employees, AFSCME Local 4 and Its Local 211

The Charging Party alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to fairly represent the Charging Party. The investigation reveals the Charged Parties did represent the Charging Party on every occasion. The Charged Parties decided not to take the grievance to arbitration based on the merits of the case. Insufficient evidence was provided to demonstrate the Charged Parties' actions were 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 Parties. Vice Chairman Gillmor seconded the motion and called for the vote.

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

17. Case 05-ULP-08-0455 International Brotherhood of Teamsters, Local 284 v. Columbus State Community College

The Charging Party alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to bargain in good faith by refusing to bargain over the ability of certain employees to carry a service weapon on duty. The investigation revealed the subject of service weapons is an inherent managerial matter of discretion.

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 and called for the vote.

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

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21. Case 05-ULP-07-0433 William Travis Lotz v. State of Ohio,
Department of Rehabilitation and
Correction, Lima Correctional Institution

Board Member Verich moved that the Board dismiss the charge with prejudice because the Charging Party has failed to pursue the matter. Vice Chairman Gillmor seconded the motion and called for the vote.

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

22. Case 05-ULP-04-0177 Union Local Association of Classroom
Teachers, OEA/NEA v. Union Local School
District Board of Education

Board Member Verich moved that the Board deny the Charging Party's Motion for Reconsideration with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

23. Case 05-ULP-09-0515 Margaretta Teachers Association,
OEA/NEA v. Margaretta Local School
District Board of Education

24. Case 05-ULP-10-0549 Margaretta Local School District Board of
Education v. Margaretta Teachers
Association, OEA/NEA

25. Case 05-ULP-10-0548 Ohio Civil Service Employees Association,
AFSCME Local 11, AFL-CIO v. Hamilton
County Sheriff's Department

26. Case 05-ULP-09-0525 Olmsted Falls Firefighters, IAFF Local
2373, AFL-CIO v. City of Olmsted Falls
and Mayor Robert F. Blomquist

27. Case 05-ULP-10-0545 Toledo Federation of Teachers, Local 250,
AFL-CIO v. Toledo City School District
Board of Education

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

Roll Call Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

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

Roll Call Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

Bureau of Mediation: Board Member Verich moved that the Mediator position be posted as soon as possible. Vice Chairman Gillmor seconded the motion. Executive Director Mayton stated that he had spoken with the Attorney General's Office and that it was their recommendation that the position be posted. Vice Chairman Gillmor called for the vote.

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

Board Member Verich moved that Executive Director Craig R. Mayton be appointed also as the Bureau of Mediation Administrator and retain his present status. Vice Chairman Gillmor seconded the motion and called for the vote.

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

Board Member Verich moved that Mediator Tom Worley temporarily continue to serve in a full-time status through December 31, 2005. Vice Chairman Gillmor seconded the motion and called for the vote.

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

VI. ADJOURNMENT

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

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

The Board Meeting was adjourned at 12:00 p.m.

/s/ Craig R. Mayton
Craig R. Mayton, Executive Director