

State Employment Relations Board
Board Meeting Minutes
March 2, 2006

The State Employment Relations Board met on Tuesday, March 2, 2006, at 10:00 a.m., at 65 East State Street, Columbus, Ohio. Present at the meeting were Vice Chairman Gillmor and Board Member Verich.

I. MINUTES AND AMENDMENTS TO MINUTES:

Board Member Verich moved that the Board approve the minutes for the February 16, 2006 Board Meeting. Vice Chairman Gillmor seconded the motion and called for the vote.

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

Board Member Verich moved that the Board amend the minutes for the January 24, 2006 Board Meeting by correcting the Case Number for Administrative Law Judge Recommendations item 2, SERB v. Miami Township Trustees, Clermont County, to 04-ULP-11-0651. 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:

1. Cases 06-MED-01-0065 American Federation of State, County and
06-REP-01-0003 Municipal Employees, Local 101 and Five
Rivers MetroParks

On January 23, 2006, the Employee Organization filed a Notice to Negotiate. The Employer filed a motion to stay negotiations involving the Employee Organization. The Employer questioned whether the Employee Organization maintains majority status in the unit based upon the filings in Case 06-REP-01-0003. Board Member Verich moved that the Board stay the negotiations in Case 06-MED-01-0065 pending disposition of Case 06-REP-01-0003, and expedite the processing of the representation case. Vice Chairman Gillmor seconded the motion and called for the vote.

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 3 of 15

3. Case 06-REP-01-0009 Teamsters Local Union No. 24 and City of Canal Fulton

The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Tax Administrator and Utility Billing Clerk. Board Member Verich moved that the Board approve the jointly filed petition and amend the unit accordingly. Vice Chairman Gillmor seconded the motion and called for the vote.

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

4. Case 06-REP-02-0019 Ohio Council 8, American Federation of State, County, and Municipal Employees, AFL-CIO and Portsmouth Metropolitan Housing Authority

The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect a title change from Social Service Assistant to Senior Resident Coordinator. The proposed amendment appears appropriate. Board Member Verich moved that the Board approve the jointly filed petition and amend the unit accordingly. Vice Chairman Gillmor seconded the motion and called for the vote.

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

5. Case 95-REP-02-0019 Fraternal Order of Police, Ohio Labor Council, Inc. and Mahoning County Sheriff

The Incumbent Employee Organization filed a Motion to Revoke Certification because the bargaining unit as certified no longer exists. Board Member Verich moved that the Board grant the motion and revoke the Employee Organization's certification. Vice Chairman Gillmor seconded the motion and called for the vote.

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 4 of 15

6. Case 97-REP-02-0035 Fraternal Order of Police, Ohio Labor Council, Inc. and Mahoning County Sheriff

The Incumbent Employee Organization filed a Motion to Revoke Certification because the bargaining unit as certified no longer exists. Board Member Verich moved that the Board grant the motion and revoke the Employee Organization's certification. Vice Chairman Gillmor seconded the motion and called for the vote.

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

7. Case 05-REP-09-0141 Akron Public Employees Association and Ohio Council 8, American Federation of State, County, and Municipal Employees, AFL-CIO and City of Akron

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization from its status as the deemed-certified exclusive representative of certain employees of the Employer. A conference call was scheduled to discuss an election. The conference call was cancelled because the Incumbent Employee Organization was not willing to consent to an election. The Rival Employee Organization seeks to represent the same employees the Incumbent Employee Organization now represents. Board Member Verich moved that the Board direct an election in the existing unit at a date, time, and place to be established by the Representation Section in consultation with the parties. Vice Chairman Gillmor seconded the motion and called for the vote.

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

8. Case 05-REP-10-0161 International Union, United Automobile, Aerospace, Agricultural Implement Workers of America, UAW and Perkins Township Trustees, Erie County

- There were 6 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- International Union, United Automobile, Aerospace, Agricultural Implement Workers of America, UAW received 5 votes and has prevailed in this election.

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 5 of 15

9. Case 05-REP-10-0147 Margaretta Township FireFighters IAFF Local 4469 and Margaretta Township, Erie County

- There were 6 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- Margaretta Township FireFighters IAFF Local 4469 received 5 votes and has prevailed in this election.

10. Case 05-REP-08-0118 Ohio Council 8, American Federation of State, County, and Municipal Employees and City of Milford

- There were 22 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- Ohio Council 8, American Federation of State, County, and Municipal Employees, AFL-CIO received 21 votes and has prevailed in this election.

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

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

11. Cases 04-ULP-02-0116 Ohio Council 8, American Federation of State, County, and Municipal Employees, Local 2461, AFL-CIO and Clermont County Board of Commissioners
04-ULP-06-0298 March 28, 2006

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

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 6 of 15

12. Case 05-REP-12-0179 Association of Broadview Heights Service and Recreation Workers and Communications Workers of America and City of Broadview Heights
March 30, 2006

Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on the date indicated. Vice Chairman seconded the motion and called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. 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
2. Case 04-ULP-06-0342 SERB v. Ohio Association of Public School Employees, AFSCME Local 4 and Its Local 673, AFL-CIO

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 complaint, and dismiss with prejudice the unfair labor practice charges. Vice Chairman seconded the motion and called for the vote.

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 7 of 15

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Cases 05-ULP-10-0560 Michael C. Badyna v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 7, AFL-CIO
- 05-ULP-10-0573 Dwight D. Ramsdell v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 7, AFL-CIO

The unfair labor practice charges alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by agreeing with the employer on a change in the selection process for alternate foreman, and by not processing the Charging Parties' grievances. The investigation revealed the selection process was not changed. The grievances were under review for arbitration. Insufficient information was provided to demonstrate the Charged Party's actions were arbitrary, discriminatory, or in bad faith. 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: _____ GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

2. Case 05-ULP-11-0630 Fraternal Order of Police, Ohio Labor Council, Inc. v. Wood County Sheriff

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (5) by eliminating a bargaining-unit position. The investigation revealed a bargaining-unit position was eliminated and a new nonbargaining-unit position was created to perform the same bargaining-unit duties. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(2) violation. 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), but not (2), by eliminating a bargaining-unit position and reassigning the duties to a nonbargaining-unit position, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 8 of 15

3. Case 05-ULP-11-0594

Robert E. Kroeger v. Ohio Association of
Public School Employees, AFSCME
Local 4, AFL-CIO and Its Local 009

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to represent the Charging Party in matters pertaining to terms and conditions of employment in the successor agreement. The investigation revealed the issues were negotiated and ratified by the bargaining unit. Insufficient information was provided to demonstrate the Charged Parties' actions were arbitrary, discriminatory, or in bad faith. Knowledge of the alleged events prior to August 7, 2005, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warranted equitable tolling of the statute of limitations. 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, and as untimely filed for events occurring prior to August 7, 2005. Vice Chairman Gillmor seconded the motion and called for the vote.

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

4. Cases 05-ULP-11-0602

Tina Haynal v. Local President Bob Roth
and Field Representative Tari Cross

05-ULP-11-0603

Tina Haynal v. Ohio Association of Public
School Employees, AFSCME, AFL-CIO

The unfair labor practice charges alleged the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to take the Charging Party's grievance to arbitration. The investigation revealed the grievance was not taken to arbitration based on the merits. Insufficient information was provided to demonstrate the Charged Parties' actions were arbitrary, discriminatory, or in bad faith. 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 and called for the vote.

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 10 of 15

7. Case 05-ULP-09-0506 Kelly L. Spergin v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 2330

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to timely process the Charging Party's grievance. The investigation revealed the Charged Party did not file the grievance in a timely manner. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to timely file the Charging Party's grievance, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

8. Case 05-ULP-12-0641 Ohio Patrolmen's Benevolent Association v. City of Englewood

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing health insurance benefits. The investigation revealed the matter involved contract interpretation with implications of a statute violation. In interpreting contract provisions such as Articles XXI and XXII, the arbitrator will determine whether the health insurance benefit changes were appropriate. Board Member Verich moved that the Board defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Vice Chairman Gillmor seconded the motion and called for the vote.

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

9. Case 05-ULP-12-0647 Glen Eldridge v. James Kwiatkowski

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), (3), (5), and (6) by interfering with the Charging Party's rights. The investigation revealed the Charging Party is not a bargaining-unit member, and was not entitled to be in the negotiations meeting. 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: _____ GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 11 of 15

10. Case 05-ULP-12-0649 Denise Y. Knight v. National Conference Firemen and Oilers, Local 701
11. Case 05-ULP-12-0650 Sandra Renee Cairl v. National Conference of Firemen and Oilers, Local 701

The unfair labor practice charges alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by interfering with the Charging Parties' right to a summer school assignment. The investigation revealed the Charging Parties were not entitled to the summer school assignments. Knowledge of the alleged violation occurred more than 90 days before the charges were filed with the Board. No mitigating circumstances existed that warranted equitable tolling of the statute of limitations. Board Member Verich moved that the Board dismiss the charges 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: _____ GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

12. Cases 05-ULP-11-0626 Rich Siskie v. City of Massillon and Michael Loudiana
- 05-ULP-11-0628 Robert Boyd v. City of Massillon and Michael Loudiana

The unfair labor practice charges alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (8) by interfering with and coercing the Union's vote regarding the request for arbitration. The investigation revealed the Chief of Police's letter did interfere with the Charging Parties' guaranteed rights and the administration of the Union. The Charging Parties received harm as a result of the letter. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate the cases, 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), (2), (3), and (8) when the Chief of Police posted a letter advocating that the union members deny the Charging Parties' request for arbitration, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 12 of 15

13. Case 05-ULP-12-0676 Toledo Firefighters, Local 92 v. City of Toledo

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to negotiate. The investigation revealed insufficient information to support the allegation that the Charged Party refused to negotiate. The delay was explained from the beginning, and the parties have negotiated. 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: _____ GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

14. Case 05-ULP-08-0466 Donna Bailey v. Brookfield Association of School Employees, OEA/NEA and Lou Ann Jones

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by attempting to force the Charging Party out of the school cafeteria by removing her position from the bargaining unit. The investigation revealed the alleged violations related to supervisory duties in a bargaining-unit position. The Charged Parties' actions were not arbitrary, discriminatory, or in bad faith. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Vice Chairman Gillmor seconded the motion and called for the vote.

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

15. Case 05-ULP-12-0638 Shelby D. Berger v. City of Riverside

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(3) and (5) by waiting until the Charging Party's recall rights were over so the Charged Party could hire someone else with less seniority. The investigation revealed the Charging Party was not engaged in Ohio Revised Code 4117 protected activities. Insufficient information was provided to support an Ohio Revised Code § 4117.11(A)(5) violation. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion and called for the vote.

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

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 13 of 15

16. Case 05-ULP-12-0639 Shelby D. Berger v. Communications Workers of America, Local 4322

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code §§ 4117.11(B)(3) and (6) and (A)(3) and (5) by failing to process the Charging Party's grievance. The investigation revealed the Charged Party did represent the Charging Party. The Charging Party's grievance was not taken to arbitration based on the merits. The Ohio Revised Code § 4117.11(A)(3) and (5) allegations were inappropriate for filing against the Charged Party. 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: _____ GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

17. Case 05-ULP-12-0677 Toledo Police Patrolmen's Association v. City of Toledo

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to bargain. The investigation revealed insufficient information to support the Charged Party's alleged refusal to negotiate. The delay was explained from the beginning, and the parties have negotiated. 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: _____ GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

State Employment Relations Board
Board Meeting Minutes
March 2, 2006
Page 15 of 15

VI. ADMINISTRATIVE MATTERS

Executive Session -- Board Member Verich moved that Board go into executive session pursuant to Ohio Revised Code § 121.22(G)(1) to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee and pursuant to Ohio Revised Code § 121.22(G)(3) to confer with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action. 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 _____

VII. ADJOURNMENT

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

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

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