

State Employment Relations Board  
Board Meeting Minutes  
February 5, 2009

The State Employment Relations Board met on February 5, 2009, at 10:00 a.m., at 65 East State Street, 12<sup>th</sup> Floor, Columbus, Ohio. Present at the meeting were Chairperson N. Eugene Brundige, Vice Chairperson Michael G. Verich, and Board Member Robert F. Spada.

I. APPROVAL OF MINUTES OF THE JANUARY 22, 2009 BOARD MEETING:

Vice Chairperson Verich moved that the Board approve the minutes for the January 22, 2009 Board meeting. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 06-MED-12-1446 City, County and Waste Paper Drivers Union,  
Local 244, IBT and City of Cleveland  
Tabled – January 8, 2009

Chairperson Brundige moved that the Board lift this matter from the table. Board Member Spada seconded the motion. Chairperson Brundige called for the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

The Employer filed a motion to stay negotiations with the Employee Organization pending a representation election in Case 08-REP-04-0063. Subsequently, the Employer filed a motion to withdraw its motion to stay negotiations. The motion to stay and the motion to withdraw were unopposed. This matter was tabled at the January 8, 2009 Board meeting.

General Counsel Russ Keith stated that a concern arose while reviewing this matter over how SERB should handle motions to stay negotiations that are filed as the result of the filing of an election petition that raises a question concerning representation, whether through a petition seeking a change in exclusive representative (from an incumbent employee organization to the rival employee organization in a Petition for Representation Election) or seeking the removal of the incumbent employee organization (by a group of bargaining-unit employees in a Petition for Decertification Election).

General Counsel Keith stated that SERB's longstanding policy has been that the filing of a Petition for Representation Election or a Petition for Decertification Election entitles an employer to conclude that it has a good faith doubt of continuing majority status and warrants a withdrawal from bargaining with the incumbent employee organization until the representation issue is resolved. SERB's policy has been to grant an employer's motion to stay negotiations when such a petition is pending.

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General Counsel Keith stated that the granting of a stay of negotiations upon the filing of an election petition is well recognized in public and private sectors. A question that arises periodically is whether such a stay should be granted upon the employer's motion or whether it should occur automatically upon the filing of an election petition. An employer's decision to *not* file a motion to stay, and therefore to continue bargaining a successor collective bargaining agreement, could impact the election results, especially if the employer and the incumbent employee organization reach an agreement before the election is held. Does the employer's decision to not file a motion conflict with the employer's duty to retain a strict neutral stance during the election period? While not ripe in this matter, this question should be pursued publicly during the Board's rules review this year, perhaps resulting in an administrative rule regarding the effect of election petitions upon the bargaining process.

Board Member Spada moved that the Board grant the Employer's motion to withdraw its motion to stay negotiations. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and asked that General Counsel Keith, in concurrence with this decision, have SERB staff research this issue further in preparation for the review he mentioned in his discussion. Chairperson Brundige then called for the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 09-REP-01-0006 Ohio Patrolmen's Benevolent Association and City of Rossford

The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect certain negotiated changes. The proposed amendment appears appropriate.

Vice Chairperson Verich moved that the Board approve the jointly filed petition and amend the unit accordingly. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_



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7. Case 08-REP-09-0140 Greene County Deputy Sheriff's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Greene County Sheriff's Office (Corrections Officers)
- There were 30 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
  - Greene County Deputy Sheriff's Benevolent Association received 30 votes and prevailed in this election.
8. Case 08-REP-09-0141 Greene County Deputy Sheriff's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Greene County Sheriff's Office (Deputy Sheriffs, rank Sergeant and above)
- There were 12 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 3 votes
  - Greene County Deputy Sheriff's Benevolent Association received 9 votes and prevailed in this election.
9. Case 08-REP-09-0142 Greene County Deputy Sheriff's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Greene County Sheriff's Office (Deputy Sheriffs)
- There were 83 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 8 votes
  - Greene County Deputy Sheriff's Benevolent Association received 75 votes and prevailed in this election.

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10. Case 08-REP-09-0147 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Genoa Township, Delaware County (Police Officers)

- There were 14 ballots cast
- There was 1 challenged ballot
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 1 vote
- Ohio Patrolmen's Benevolent Association received 12 votes and prevailed in this election.

11. Case 08-REP-09-0148 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Genoa Township, Delaware County (Lieutenants)

- There were 3 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
- Ohio Patrolmen's Benevolent Association received 3 votes and prevailed in this election.

12. Case 08-REP-09-0149 Ohio Patrolmen's Benevolent Association and International Brotherhood of Teamsters, Local 92 and City of Alliance

- There were 8 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- International Brotherhood of Teamsters, Local 92 received 0 votes
- Ohio Patrolmen's Benevolent Association received 8 votes and prevailed in this election.

Vice Chairperson 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. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

- |    |  |   |
|----|--|---|
| 1. | Cases 07-ULP-02-0062<br>07-ULP-04-0166<br>07-ULP-06-0272<br>07-ULP-08-0433<br>07-ULP-09-0488 | <u>SERB v. Mason City School District Board of Education</u>                            |
| 2. | Case 08-ULP-02-0050  | <u>SERB v. Mason City School District Board of Education</u>                            |
| 3. | Case 07-ULP-12-0658  | <u>SERB v. Summit County Board of Mental Retardation and Developmental Disabilities</u> |
| 4. | Case 08-ULP-08-0329  | <u>SERB v. Portage Area Regional Transit Authority</u>                                  |

Board Member Spada moved that the Board construe the settlement agreement as Charging Party's motion to withdraw, grant all of the motions to withdraw and dismiss, dismiss the complaints, and dismiss with prejudice the unfair labor practice charges. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:   Aye   VERICH:   Aye   SPADA:   Aye    
Affirmed   X   Denied \_\_\_\_\_

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

- |    |                     |   |
|----|---------------------|---|
| 1. | Case 08-ULP-09-0364 | <u>Wadsworth Support Staff Association v. Wadsworth City School District Board of Education</u> |
|----|---------------------|---|

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Jeffery Kollin and other bargaining-unit employees for engaging in protected activity. Information gathered during the investigation revealed Charging Party failed to establish a prima facie case of discrimination. Mr. Kollin did not suffer any harm. The other employees were not engaged in protected activities. It did not appear that employees were interfered with, restrained, or coerced in the exercise of guaranteed rights.

Vice Chairperson 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 Charged Party. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:   Aye   VERICH:   Aye   SPADA:   Aye    
Affirmed   X   Denied \_\_\_\_\_

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2. Case 08-ULP-10-0449 Dion D. Dutton v. City of Wadsworth

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by terminating Charging Party from employment as a result of his participation in protected activities. Information gathered during the investigation revealed Charging Party failed to establish a prima facie case of discrimination. Charging Party was a public employee, but failed to show he was engaged in any concerted, protected activity. The comments made during Charging Party's probationary review appeared to be consistent with the Charged Party's argument that Charging Party's performance was unsatisfactory. The comments did not appear to amount to an Ohio Revised Code § 4117.11(A)(1) violation.

Board Member Spada 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 Charged Party. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:	<u>Aye</u>	VERICH:	<u>Aye</u>	SPADA:	<u>Aye</u>
Affirmed	<u>X</u>		<u>Denied</u>	<u>                    </u>	

3. Case 08-ULP-11-0475 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Rehabilitation and Correction, Lebanon Correctional Institute and Warden Tim Brunzman

The unfair labor practice charge alleged Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (2), and (5) by making threats in an attempt to discredit the Chapter President in the eyes of his members. Information gathered during the investigation revealed a conversation was held between Chapter President Spencer and Warden Brunzman. Labor-management issues were discussed. Despite the fact that the parties disagree as to whether Warden Brunzman made threatening comments to Mr. Spencer, the totality of the circumstances did not appear to rise to the level of a statutory violation. Charging Party failed to provide any information to support the Ohio Revised Code § 4117.11(A)(5) allegation.

Vice Chairperson 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 Charged Parties. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and said he supported the recommendation due to the lack of evidence presented regarding the alleged allegations. Chairperson Brundige called for the vote.

Vote: BRUNDIGE:	<u>Aye</u>	VERICH:	<u>Aye</u>	SPADA:	<u>Aye</u>
Affirmed	<u>X</u>		<u>Denied</u>	<u>                    </u>	

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4. Case 08-ULP-11-0479 Anissa LeShawn Dickson v. Cuyahoga County Sheriff's Department

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11. Information gathered during the investigation revealed information was requested in writing from Charging Party on November 26, 2008, and December 17, 2008. Charging Party did not respond to the written requests for information.

Board Member Spada moved that the Board dismiss the charge with prejudice for failure of Charging Party to pursue the matter. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

5. Case 08-ULP-11-0480 Anissa LeShawn Dickson v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent Charging Party. Information gathered during the investigation revealed Charging Party failed to show how Charged Party's actions were arbitrary, discriminatory, or in bad faith.

Vice Chairperson 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 Charged Party. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

6. Case 08-ULP-11-0485 Mark J. Gardner v. Fraternal Order of Police, Capital City Lodge #9

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent its members. Information gathered during the investigation revealed that although Charging Party believed Charged Party failed to fairly represent its members, the claim appeared to be unsupported. Charged Party made an effort to pursue the grievance in question. Charged Party was not required to take the grievance to arbitration and yet, took steps it believed were necessary for a meritorious outcome. Charging Party failed to show Charged Party's actions were arbitrary, discriminatory, or in bad faith.

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Board Member Spada 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 Charged Party. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

7. Case 08-ULP-11-0504 Steven C. Pearson v. State of Ohio, Department of Rehabilitation and Correction, Adult Parole Authority and Roger Wilson

The unfair labor practice charge alleged Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by interfering with Charging Party's guaranteed rights, and attempting to circumvent the union by dealing directly with him regarding contractual issues. Information gathered during the investigation revealed the matter was contractual in nature and was resolved appropriately through the grievance procedure. Charging Party did not have standing to allege an Ohio Revised Code § 4117.11(A)(5) violation as an individual. Ultimately, no reassignment or transfer occurred, and based on the totality of circumstances, no coercion was evident.

Vice Chairperson 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 Charged Parties, and for lack of standing. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

8. Case 08-ULP-11-0506 Kimberly Bentley v. Columbus Municipal Association of Government Employees/ Communications Workers of America, Local 4502 and President Teresa Langer

The unfair labor practice charge alleged Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to fairly represent Charging Party. Information gathered during the investigation revealed Charging Party was not entitled to the time being charged from the Charged Parties' release time bank. Charging Party spent only one hour preparing for negotiations and was only entitled to the one hour. Charging Party failed to show how Charged Parties' actions were arbitrary, discriminatory, or in bad faith.

Board Member Spada 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 Charged Parties. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

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9. Case 08-ULP-09-0386 Strongsville Education Association, OEA/NEA v. Strongsville City School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by assigning bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation revealed information was requested in writing from Charging Party on September 17, 2008, and December 9, 2008. Charging Party did not respond to the written requests for information.

Vice Chairperson Verich moved that the Board dismiss the charge with prejudice for failure of Charging Party to pursue the matter. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

10. Case 08-ULP-10-0425 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Akron City School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (7) by changing the terms and conditions of employment after it filed a Request for Recognition. Information gathered during the investigation revealed the Inter-District Memorandum did not rise to the level of a statutory violation. The memorandum had been distributed since 2002, and was given to all employees in Job Code 407, which is the same as the ten employees who were seeking representation. Based on the information provided, Charged Party did not appear to have altered the terms and conditions of employment for any of the employees in Job Code 407.

Board Member Spada 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 Charged Party. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

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11. Case 08-ULP-10-0451 City of Upper Arlington v. International Brotherhood of Teamsters, Local 284

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (3) by failing to bargain in good faith.

Chairperson Brundige moved that the Board, without rendering any judgment on the question of whether probable cause exists, direct the parties to pre-determination mediation for a period not to exceed thirty (30) days, with instructions to the mediator to report back to the Board regarding the status of the unfair labor practice mediation at that time. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

12. Case 08-ULP-10-0457 International Association of Firefighters, Local 1690, IAFF, AFL-CIO v. City of Parma Heights and Fire Chief Bryan Sloan

The unfair labor practice charge alleged Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing the person-time provision outlined in Article 17.06.

Chairperson Brundige moved that the Board, without rendering any judgment on the question of whether probable cause exists, direct the parties to pre-determination mediation for a period not to exceed thirty (30) days, with instructions to the mediator to report back to the Board regarding the status of the unfair labor practice mediation at that time. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

13. Case 08-ULP-10-0461 United Steelworkers of America v. City of Reynoldsburg

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by denying the members the same wage increase "as everyone else." Information gathered during the investigation revealed Charging Party failed to establish a prima facie case of discrimination. Charging Party failed to provide any information to support how it was harmed by Charged Party's failure to accept the fact-finder's decision. It is also noted that Charging Party did not allege an Ohio Revised Code § 4117.11(A)(5) violation on either the original or amended charge.

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Board Member Spada 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 Charged Party. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

14. Case 08-ULP-11-0473 Tamatha Martin v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11. Information gathered during the investigation revealed information was requested in writing from Charging Party on November 10, 2008, and December 5, 2009. Charging Party did not respond to the written requests for information.

Vice Chairperson Verich moved that the Board dismiss the charge with prejudice for failure of Charging Party to pursue the matter. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

15. Case 08-ULP-11-0483 Richard Gerrein v. University of Cincinnati

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(3) by discriminating against Charging Party due to his exercise of guaranteed rights. Information gathered during the investigation revealed Charging Party has established a prima facie case of discrimination. Charged Party provided a persuasive rebuttal to show Charging Party was promoted, prior to filing the unfair labor practice charge, to another position for which he was better suited. Charging Party did not provide sufficient information to support the allegation that Charged Party's decision not to promote him to that particular position was based on anti-union animus.

Board Member Spada 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 Charged Party. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

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16. Case 08-ULP-11-0488 Ohio Patrolmen's Benevolent Association v. Sylvania Township, Lucas County

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by retaliating against Officer Ron Dicus for the exercise of his guaranteed rights. Information gathered during the investigation revealed that the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance procedure. Contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and grievance dispute.

Vice Chairperson 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), and deny Charged Party's motion as moot. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_

17. Case 08-ULP-09-0370 Fred Drotleff v. City of Canton

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by subjecting Charging Party to verbal abuse and discipline for filing a grievance. Information gathered during the investigation revealed a violation may have been committed when Charging Party's supervisor yelled and cursed at Charging Party in response to comments made at a grievance mediation. There is no evidence of an Ohio Revised Code § 4117.11(A)(3) violation occurring since Charged Party's actions were in response to accusations made by the supervisor, and not because of Charging Party's protected activities. Charging Party failed to provide information to support the Ohio Revised Code § 4117.11(A)(4) allegation. There was no indication that Charging Party filed a previous unfair labor practice or testified at a SERB hearing. Mediation, by Judy Knapp on January 30, 2009, was unsuccessful, and no further mediation was recommended.

Board Member Spada 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 Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (3) and (4), by yelling and cursing at Charging Party for making comments during the grievance-mediation process. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE: Aye VERICH: Aye SPADA: Aye  
Affirmed X Denied \_\_\_\_\_



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- 22. Case 08-ULP-12-0548 International Brotherhood of Teamsters, Local 637 v. South East Area Transit Authority
- 23. Case 08-ULP-10-0442 Black River Teachers Association, OEA/NEA v. Black River Local School District Board of Education
- 24. Case 08-ULP-11-0471 Buckeye Local School District Board of Education v. Buckeye Education Association, OEA/NEA
- 25. Case 08-ULP-10-0437 Black River Teachers Association, OEA/NEA v. Black River Local School District Board of Education
- 26. Case 08-ULP-08-0318 Vermilion Teachers Association, OEA/NEA v. Vermilion Local School District Board of Education and President Timothy Rini

Vice Chairperson Verich moved that the Board construe the letter as a motion to withdraw the charge, and grant with prejudice the motions to withdraw. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

- 27. Case 08-ULP-09-0407 Bucyrus Fire Fighters Local 1120, IAFF v. City of Bucyrus

Chairperson Brundige moved that the Board lift this matter from the table. Board Member Spada seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

On December 15, 2008, the parties entered into a settlement agreement to resolve the unfair labor practice charge. On January 5, 2009, Charged Party's Law Director filed a Motion to Vacate the Settlement Agreement. The Motion states the Mayor did not have the authority to sign the agreement as Charged Party's representative. The investigation revealed that pursuant to Ohio Revised Code § 4117.10(C), the Mayor does have the authority to sign a settlement agreement on behalf of Charged Party. The unfair labor practice charge appears to stem from the Auditor's refusal to abide by a grievance settlement made in June 2008. The parties' grievance-arbitration procedure does not state that any settlement must be approved by the Law Director or the Auditor prior to implementation.

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Chairperson Brundige moved that the Board deny Charged Party Law Director's Motion to Vacate, construe the settlement agreement as Charging Party's Motion to Withdraw, and grant the motion with prejudice. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for discussion and the vote.

Vote: BRUNDIGE:     Aye     VERICH:     Aye     SPADA:     Aye      
Affirmed     X     Denied \_\_\_\_\_

VI. TABLED AND OTHER MATTERS:

1. Case 08-ULP-10-0434 City of Salem v. Fraternal Order of Police, Ohio Labor Council, Inc.  
Tabled - November 20, 2008
  
2. Case 08-REP-03-0054 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2678, AFL-CIO and Cuyahoga Community College  
Tabled – December 11, 2008
  
3. Case 06-MED-12-1446 City, County and Waste Paper Drivers Union, Local 244, IBT and City of Cleveland  
Tabled – January 8, 2009
  
4. Cases 07-ULP-10-0535 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2687, AFL-CIO v. Cuyahoga Community College  
07-ULP-10-0536  
07-ULP-10-0537  
07-ULP-10-0538  
07-ULP-10-0539  
Tabled – January 8, 2009
  
5. Case 08-ULP-09-0407 Bucyrus Fire Fighters Local 1120, IAFF v. City of Bucyrus  
Tabled – January 8, 2009
  
6. Case 08-ULP-10-0443 Copley Fairlawn Support Staff Association v. Copley Fairlawn City School District Board of Education  
Tabled – January 8, 2009

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VII. ADMINISTRATIVE MATTERS:

Executive Director Sherrie Passmore reported that the agency received its audit management report for Fiscal Years 2007-2008, and received a clean audit with no findings in it at all. Chairperson Brundige requested that Ms. Passmore convey to Dannetta Babbs, SERB's Fiscal Officer, the Board's sincere thanks for working so hard in order for the agency to receive such a good report.

Ms. Passmore mentioned SERB is working very hard with the preparations for the agency's 25<sup>th</sup> Anniversary/Conference, which is being held on April 1 and 2, 2009. A brochure was being sent out. It was also noted that CLE credits will be available.

Ms. Passmore also reported that Governor Strickland's budget presentation recommends legislation that would make the State Personnel Board of Review's staff as employees of the State Employment Relations Board. The transition planning was starting, it was proceeding smoothly, and both staffs were very cooperative with the planning the transition.

**Executive Session**

The Board went into executive session at 10:20 a.m.

Vice Chairperson Verich moved that the Board go into executive session, pursuant to Ohio Revised Code §§ 121.22(G)(1) and (G)(3) to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of public employees and to confer with an attorney for the Board concerning a dispute involving the Board that is the subject of pending court action. Board Member Spada seconded the motion. Chairperson Brundige called for the roll-call vote.

ROLL-CALL VOTE:

BRUNDIGE:	<u>    Aye    </u>	VERICH:	<u>    Aye    </u>	SPADA:	<u>    Aye    </u>
Affirmed	<u>    X    </u>		<u>  Denied  </u>		<u>          </u>

Board Member Spada moved that the Board exit from Executive Session. Vice Chairperson Verich seconded the motion. Chairperson Brundige called for the roll-call vote.

ROLL-CALL VOTE:

BRUNDIGE:	<u>    Aye    </u>	VERICH:	<u>    Aye    </u>	SPADA:	<u>    Aye    </u>
Affirmed	<u>    X    </u>		<u>  Denied  </u>		<u>          </u>

The Board exited from executive session at 11:20 a.m.

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VIII. ADJOURNMENT:

Vice Chairperson Verich moved that the Board adjourn the meeting. Board Member Spada seconded the motion. Chairperson Brundige called for the vote.

Vote: BRUNDIGE:   Aye   VERICH:   Aye   SPADA:   Aye    
Affirmed   X   Denied \_\_\_\_\_

The Board meeting adjourned at 11:21 a.m.

  /s/ N. Eugene Brundige    
N. Eugene Brundige, Chairperson