

State Employment Relations Board

Board Meeting Minutes
October 27, 2011

The State Employment Relations Board met on October 27, 2011, at 10:00 a.m., at 65 East State Street, 12th Floor, Columbus, Ohio. Present at the meeting were Chair W. Craig Zimpher, Vice Chair Robert F. Spada, and Board Member N. Eugene Brundige.

I. APPROVAL OF MINUTES FOR THE OCTOBER 13, 2011 BOARD MEETING:

Vice Chair Spada moved that the Board approve the minutes for the October 13, 2011 Board meeting. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Cases 2011-MED-09-1170 Fraternal Order of Police, Ohio Labor Council,
2011-MED-09-1171 Inc. and Tuscarawas County Sheriff
2011-MED-09-1172

On September 9, 2011, the Fraternal Order of Police, Ohio Labor Council, Inc. ("Employee Organization") filed with SERB Notices to Negotiate concerning negotiations for a successor collective bargaining agreement with the Tuscarawas County Sheriff ("Employer"). 11-MED-09-1170 (Deputy Sheriff in Recycling and Litter). 11-MED-09-1171 (All Employees in the classification of Road Patrol Sergeant and Corrections Officer Sergeants with the exception of Jail Administrator). 11-MED-09-1172 (All Employees in the classifications of Corrections Officer). On November 16, 2011, a mediator is to be appointed by SERB's Bureau of Mediation.

On September 16, 2011, Teamsters Local Union No. 92 ("Incumbent Employee Organization") filed a Petition for Representation Election in (Case No. 2011-REP-09-0084) with SERB seeking to replace Fraternal Order of Police, Ohio Labor Council, as the exclusive representative for a bargaining unit of Corrections Officers of the Tuscarawas County Sheriff ("Employer").

On September 27, 2011, the Employer filed with SERB a Motion To Stay Negotiations in Case No(s). 11-MED-09-1170, 11-MED-09-1171, and 11-MED-09-1172, pending resolution of the related representation Case No. (2011-REP-09-0084). The Representation Petition is only for the unit of Corrections Officers. When the Notices To Negotiate were filed the Employee Organization requested to do multi-unit bargaining. The Employer agreed to the multi-unit bargaining on September 14, 2011.

Board Member Brundige moved that the Board grant the Employer's Motion To Stay Negotiations in Case No. 2011-MED-09-1172 pending disposition of the related representation case in Case No. 2011-REP-09-0084 and that the Board Deny the Stay Of Negotiations in Case No(s) 2011-MED-09-1170 and 2011-MED-09-1171, as a Representation Petition in either case has not been filed. Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2011-REP-10-0098 Youngstown State University Association of Professional and Administrative Staff (YSU-APAS)(OEA/NEA) and Youngstown State University
2. Case 2011-REP-10-0095 Communications Workers of America, Local 4501, AFL-CIO and Franklin County Veterans Service Commission
3. Case 2011-REP-10-0104 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, Local 2357 and Perry County Department of Job and Family Services
4. Case 2011-REP-10-0103 United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union (USW), Local 8845 and Lorain County Treasurer

The parties jointly filed Petitions for Amendment of Certification. The proposed amendments appear appropriate.

Vice Chair Spada moved that the Board approve the jointly filed petitions and amend the units accordingly. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

5. Case 2011-REP-04-0030 Youngstown State University Association of Classified Employees (YSU-ACE)(OEA/NEA) and Youngstown State University

The Employer filed a Petition for Clarification of Bargaining Unit. A conference call was conducted. As a result of mediation efforts by the Representation Section, the Employer has now filed a letter requesting withdrawal of the petition.

Board Member Brundige moved that the Board construe the Employer's letter as a motion to withdraw, grant the motion, and dismiss without prejudice the Petition for Clarification of Bargaining Unit. Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 3 of 14

6. Case 2011-REP-10-0100 Joyce Bunfill and Teamsters Local Union 637 and Countryview Assisted Living Center

On October 7, 2011, the Petitioner filed a Petition for Decertification Election.

Ohio Revised Code § 4117.07(C)(6) allows for the filing of Petitions for Decertification Election with the Board no sooner than 120 days or later than 90 days before the expiration date of any collective bargaining agreement. The current collective bargaining agreement expires December 31, 2011. It appears the last date to file the instant petition would have been October 3, 2011; therefore, the petition is untimely filed. The Representation Section has advised the Petitioner that the petition will be dismissed as untimely filed. She has also been advised that SERB will be returning the showing of interest so that she may file after the contract expires if she wishes to do so.

Vice Chair Spada moved that the Board dismiss without prejudice the Petition for Decertification Election pursuant to Ohio Revised Code § 4117.07(C)(6). Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 2009-ULP-09-0468 SERB v. Hamilton County Job and Family Services.

On September 9, 2009, the International Brotherhood of Teamsters Local 100 ("Union") filed an unfair labor practice charge against Hamilton County Job and Family Services ("Employer"), alleging that the Employer violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1) and (A)(5). On December 3, 2009, the State Employment Relations Board ("SERB," "Complainant," or "the Board") deferred the charge to arbitration. On March 17, 2011, SERB determined that probable cause existed to believe that the Employer violated O.R.C. § 4117.11 (A)(5), but not (A)(1), by unilaterally assigning bargaining-unit work to nonbargaining-unit employees, authorized the issuance of a complaint, and referred the matter to hearing. On May 12, 2011 a complaint was issued.

A hearing was held on July 21, 2011, wherein testimonial and documentary evidence was presented. Subsequently, the parties filed post-hearing briefs. On September 13, 2011, the Administrative Law Judge issued a Proposed Order, recommending that the Board find that the Employer did not violate O.R.C. § 4117.11(A)(5). No exceptions to the Proposed Order were filed by any party.

If no exceptions are filed within the twenty days after service of a Proposed Order, the Proposed Order becomes the Order of the Board, pursuant to O.R.C. § 4117.12(B)(2).

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 4 of 14

Board Member Brundige moved that the Board issue an Order stating that: Since no exceptions were filed by any party, the Administrative Law Judge's Proposed Order becomes the Order of the Board, pursuant to Ohio Revised Code Section § 4117.12.(B)(2). Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

2. Case 2011-ULP-01-0026 SERB v. Beachwood City School District Board of Education

On January 18, 2011, the Ohio Federation of Teachers, Local 6480 (OFT) filed an unfair labor practice charge against the Beachwood City School District Board of Education (the School District), alleging that the School District violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(3), (A)(4), and (A)(5). On April 28, 2011, the State Employment Relations Board ("the Board") determined that probable cause existed to believe that a violation had occurred, directed the parties to mediation, and if mediation proved unsuccessful, authorized the issuance of a complaint and directed the matter to hearing. A complaint was issued on August 3, 2011, and the matter was set for hearing.

On October 14, 2011, Counsel for Complainant filed a Motion to Dismiss that included as an attachment a motion to dismiss pursuant to settlement agreement from the Ohio Federation of Teachers, Local 6480 (Exhibit A). Complainant's Motion to Dismiss indicates that the parties have reached a tentative settlement and agreed to have the unfair labor charge dismissed.

Vice Chair Spada moved that the Board grant the Motion to Dismiss and dismiss with prejudice the unfair labor practice charge and complaint in Case No. 2011-ULP-01-0026. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

3. Case 2011-ULP-06-0160 SERB v. Chester Township Board of Trustees and Fire Chief John Wargelin

On June 7, 2011, Christian Platzar and the Chester Township Firefighters Association filed an unfair labor practice charge against the Chester Township Board of Trustees and Fire Chief John Wargelin (Charged Parties), alleging that Charged Parties violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1), (A)(2), and (A)(3). On August 18, 2011, the State Employment Relations Board ("the Board") determined that probable cause existed to believe that a violation had occurred, directed the parties to mediation, and if mediation proved unsuccessful, authorized the issuance of a complaint and directed the matter to hearing. A complaint was issued on September 16, 2011, and the matter was set for hearing.

On October 14, 2011, Counsel for Complainant filed a Motion to Dismiss that included as an attachment a copy of the parties' settlement agreement resolving the issues in Case No. 2011-ULP-06-0160 (Exhibit A).

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 5 of 14

Board Member Brundige moved that the Board grant the Motion to Dismiss and dismiss with prejudice the unfair labor practice charge and complaint in Case No. 2011-ULP-06-0160. Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2011-ULP-08-0216 Bruce A. Jones v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (B)(6) by failing to take his termination grievance to arbitration.

Information gathered during the investigation revealed Charged Party's actions do not appear to be arbitrary, discriminatory, or in bad faith. Charged Party filed the grievance, processed it through the steps and had its Discharge Review Committee review the merits of the grievance. Charging Party was afforded an opportunity to present his case to the Committee, but the Committee voted not to advance the grievance to arbitration based on the merits. Charging Party appealed the decision, but Charged Party denied the appeal because Charging Party had not provided any new information at the Committee meeting or in his appeal letter.

Vice Chair 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. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

2. Case 2011-ULP-08-0223 Terry M. Dayton v. Ohio Civil Service Employees Association, AFSCME Local 11 and Its Local 710

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (B)(6) by denying him access to a Chapter meeting where the Chapter President became "confrontational and threatening".

Information gathered during the investigation revealed the allegations appear to be best addressed through Charged Party's internal Constitution and By-laws. Charged Party barred Charging Party from membership rights in 2009. Being barred from the August 9, 2011 meeting appears to be the result of internal Union procedures. Charging Party did not provide any information to show he pursued the matter through OCSEA's internal procedures. Allegations referencing O.R.C. §§ 2905.12, 2917.11 and 2917.12 are not within SERB's jurisdiction.

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 6 of 14

Board Member Brundige 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 jurisdiction regarding the alleged violations of O.R.C. §§ 2905.12, 2917.11 and 2917.12. Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

3. Case 2011-ULP-08-0232 Glass, Molders, Pottery, Plastics & Allied Workers International Union v. Columbiana County Commissioners

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1) and (5) by unilaterally creating a new position and assigning it duties previously performed by a bargaining-unit member.

Information gathered during the investigation revealed Charged Party appears to have made an attempt to schedule a meeting with Charging Party to discuss/negotiate whether the Human Resources Administrator position should be included/excluded from the bargaining unit, but Charging Party did not respond to the request. No job description exists for the position other than it performed some "clerical functions", therefore; a determination cannot be made as to whether or not the new position is now performing bargaining-unit work. Charging Party did not respond to additional requests for information. Charging Party did not provide sufficient information or documentation to support the (A)(1) allegation.

Vice Chair 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. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

4. Case 2011-ULP-09-0251 Calvin M. Johnson v. City of Cleveland

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(6), (B)(6).

Information gathered during the investigation revealed on September 28, 2011, Charging Party was notified in writing that a dismissal recommendation would be made to the Board unless the deficiency was correct no later than October 11, 2011. As of this writing, Charging Party has not provided a clear and concise statement of the facts constituting an alleged violation.

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 7 of 14

Board Member Brundige moved that the Board dismiss the charge without prejudice due to Charging Party's failure to provide a clear and concise statement of the facts constituting the alleged violation. Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

5. Case 2011-UPL-07-0207 Huron Education Association, OEA/NEA v. Huron City School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1), (3), and (5) by retaliating against the Association President for exercising her guaranteed rights.

Information gathered during the investigation revealed Charging Party has failed to establish a prima facie case of discrimination. The decision to change Ms. Arambula's schedule does not amount to an adverse action. Based on the totality of the circumstances, Charged Party's actions do not appear to amount to a statutory violation. Charging Party did not provide sufficient information or documentation to support the (A)(5) allegation.

Vice Chair 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. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

6. Case 2011-UPL-08-0227 Swanton Education Association, OEA/NEA v. Swanton Local School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1) and (5) by undermining its role as bargaining representative, directly dealing with employees, and bargaining in bad faith.

Information gathered during the investigation revealed the parties' respective team members were involved in the discussion; therefore, Charged Party's actions to not amount to direct dealing. Also, Charged Party's argument that it was ready to continue bargaining and that it was just an initial proposal appears to be reasonable. Charging Party did not provide sufficient information or documentation to support the (A)(1) allegation.

Board Member Brundige 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 Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 8 of 14

7. Case 2011-ULP-08-0228 Erie County Developmental Disabilities Employees' Association, OEA/NEA and Pamela Litzenberg v. Erie County Board of Developmental Disabilities

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1) and (5) by refusing to bargain regarding terms and conditions of employment.

Information gathered during the investigation revealed despite Charging Party's allegation that a year prior to the abolishment it had calculated Ms. Litzenberg's hourly rate to be seventeen dollars and forty-four cents as a twelve month employee, it appears Charged Party was following the provisions outlined in the negotiated agreement and placed Ms. Litzenberg in the appropriate pay range. The allegations do not rise to the level of a statutory violation and appear to be strictly contractual. Charging Party did not provide sufficient information or documentation to support the (A)(1) allegation. Charged Party filed a motion to dismiss.

Vice Chair 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 and deny the motion as moot. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

8. Case 2011-ULP-09-0238 Erie County Board of Developmental Disabilities v. Erie County Developmental Disabilities Employees' Association, OEA/NEA and Nancy Simko

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (B)(1), (2) and (3) by attempting to bypass the negotiation process by attempting to directly deal with a Board member.

Information gathered during the investigation revealed Charging Party's action does not rise to the level of a statutory violation. Charged Party did not provide sufficient information or documentation to support the (B)(1), (2), and (3) allegations.

Board Member Brundige 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 Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 9 of 14

9. Case 2011-ULP-09-0243 Service Employees International Union, District 1199 v. Stark County Library

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1), (4), (5), (6), (7) and (8) by failing to bargain in good faith concerning two grievances and retaliating against the employees who were the subjects of the grievances.

Information gathered during the investigation revealed the allegations appear strictly contractual with no evidence of a statutory violation. Charging Party did not provide sufficient information or documentation to support the (A)(1), (4), (5), (6), (7), and (8) allegations.

Vice Chair 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. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

10. Case 2011-ULP-09-0244 Service Employees International Union, District 1199 v. Stark County Library

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1), (5), and (8) by directly dealing with a bargaining-unit employee in an attempt to undermine the Union.

Information gathered during the investigation revealed on or about September 14, 2011, Charged Party informed a bargaining-unit employee that he might be called into a grievance mediation. Charging Party did not provide sufficient information or documentation to support the (A)(1), (5) and (8) allegations.

Board Member Brundige 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 Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

11. Case 2011-ULP-06-0188 Carnell B. Felton, Sr. v. Columbus Municipal Association of Government Employees (CMAGE)/Communication Workers of America, Local 4502

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (B)(1) and (6) by restraining or coercing employees in the exercise of their guaranteed rights and failing to represent all unit members fairly.

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 10 of 14

Information gathered during the investigation revealed Charging Party's allegations appear to be matters of internal union business. Charging Party failed to initiate or exhaust its remedies pursuant to Charged Party's Constitution and By-laws. Charging Party failed to provide sufficient information or documentation to support the (B)(1) allegation.

Vice Chair 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. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

12. Case 2011-ULP-05-0142 Frank T. Lambros v. Fraternal Order of Police, Ohio Labor Council, Inc.

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (B)(6) by failing to provide him with a criminal attorney; failing to apprise him of the outcome of his appeal regarding his request for a criminal attorney; and failing to train Deputy Stone, another bargaining-unit employee, as to when to sign up for extra duty details.

Information gathered during the investigation revealed that on October 12, 2011, Charging Party filed an untimely motion for reconsideration. Ohio Administrative Code 4117-1-04(E) requires the filing of motions for reconsideration no later than thirty (30) days after the issuance of the Board's final ruling. The Directive was issued on August 26, 2011. The reconsideration appears untimely filed.

Board Member Brundige moved that the Board deny the motion for reconsideration with prejudice as untimely filed. Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

13. Case 2011-ULP-06-0156 Ralph Workman v. Ohio Council 8, American Federation of State, County and Municipal Employees

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (B)(6) by failing to fairly represent him when he was terminated.

Information gathered during the investigation revealed that on October 4, 2011, Charging Party filed a request for reconsideration. Despite the fact that Charging Party may not have been aware of the thirty (30) day time requirement to file for reconsideration, Charging Party did not provide any new information meriting reconsideration. The Directive was issued on August 26, 2011. The reconsideration appears untimely filed.

Vice Chair Spada moved that the Board construe the request for reconsideration as a motion for reconsideration, and deny the motion with prejudice and as untimely filed.

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 11 of 14

Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

14. Case 2010-ULP-12-0480 Ohio Patrolmen's Benevolent Association and Police Officer Robert Swope v. City of Olmsted Falls

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1), (3), (4), and (7) by interfering with the exercise of the employees' guaranteed rights, discriminating against the employee for filing a Petition for Clarification of Bargaining Unit, and retaliating by reducing that employee's hours during a labor dispute.

Information gathered during the investigation revealed Charging Party has failed to establish a prima facie case of discrimination. If a prima facie case had been established, Charged Party provided a persuasive rebuttal to show Officer Swope's reduction in hours was not related to any protected activity. The parties agree that Officer Swope will continue to be assigned to the D.A.R.E. program for the current school year. Charging Party did not provide sufficient information or documentation to support the (A)(4) and (7) allegations.

Board Member Brundige 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 Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

15. Case 2011-ULP-03-0100 Toledo Area Regional Transit Authority v. Amalgamated Transit Union, Local 697

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

Information gathered during the investigation revealed it appears that the statement made by Ms. Betz during the Board of Trustees Meeting bypassed Charged Party's negotiating team, and implies she discussed details of the negotiations with Charged Party's principles.

Vice Chair Spada 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 an expedited hearing to determine if Charged Party violated Ohio Revised Code § 4117.11(B)(3) by failing to bargain in good faith. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 12 of 14

16. Case 2011-ULP-08-0229 Paul D. Miles v. City of Cleveland

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(3) by failing to classify him as an Asphalt Tamperer and Cold Patch Crack Sealer Worker pursuant to an arbitration award filed on behalf of Local 1099's members.

Information gathered during the investigation revealed that on or about May 6, 2011, the arbitrator submitted his award, which was in the Union's favor. Charging Party was not included in the award and did not file the instant charge until August 29, 2011. The charge is untimely filed. Charging Party did not provide any information to toll the statute of limitations.

Board Member Brundige moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chair Spada seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

17. Case 2011-ULP-10-0258 St. Marys Education Association, OEA/NEA v. St. Marys Local School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code § 4117.11 (A)(1) and (5). Charging Party filed a motion to withdraw.

Vice Chair Spada moved that the Board grant the motion to withdraw with prejudice. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

VI. TABLED AND OTHER MATTERS:

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|---------------------------|--|
| 1. Cases 2011-ULP-01-0032 | <u>City of Fostoria v. Ohio Patrolmen's Benevolent Association</u> |
| 2011-ULP-01-0033 | <u>City of Fostoria v. Ohio Patrolmen's Benevolent Association and Justin Kiser</u> |
| 2011-ULP-01-0034 | <u>City of Fostoria v. International Association of Firefighters</u> |
| 2011-ULP-01-0035 | <u>City of Fostoria v. Ohio Patrolmen's Benevolent Association and Brandon Bell</u> |
| 2011-ULP-01-0036 | <u>City of Fostoria v. Ohio Patrolmen's Benevolent Association and Cory Brian</u> |
| 2011-ULP-01-0037 | <u>City of Fostoria v. International Association of Firefighters, Local 325 and Chapter President Jason Root</u> |

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 13 of 14

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| | 2011-ULP-01-0038 | <u>City of Fostoria v. International Association of Firefighters, Local 325 and Warren Digby</u>
Tabled – March 17, 2011 |
| 2. | Case 2010-MED-07-0882 | <u>Lebanon Professional Firefighters, IAFF Local 4796 and City of Lebanon</u>
Tabled – April 28, 2011 |
| 3. | Cases 2010-ULP-09-0365
2010-ULP-09-0366
2010-ULP-09-0367
2010-ULP-09-0368
2010-ULP-09-0369
2010-ULP-09-0370
2010-ULP-09-0371
2010-ULP-09-0372
2010-ULP-09-0373
2010-ULP-09-0374 | <u>SERB v. Urbana Firefighters Association, IAFF Local 1823, et al.</u>
Tabled – September 15, 2011 |

VII. ADMINISTRATIVE MATTERS:

Executive Director Christine Dietsch reported on Administrative Matters:

SERB REGULAR SCHEDULED MEETING DATES:

- Reminder of the regular scheduled meeting dates of the State Employment Relations Board:
 - **November 17**
 - **December 01 & 15**

SYSTEM UPDATES:

- **Statewide Cost Allocation Plan (SWCAP)** has been submitted to the Office of Budget and Management (OBM) ahead of schedule. Deadline for submission is Friday, October 28, 2011.
- **Continuing to update the OIT Annual Plan**
- **OIT and XLN have made the necessary updates** to the new PC's so that Windows 7 will be compatible with the legacy application known as Crystal Reports which drives the CMDS. This update enables access to CMDS, without which access would be all but impossible.
- **EEO Strategic Plan has been updated and submitted** to EEO. Marcie Scholl, EEO Officer for SERB, did an excellent job in preparing the final copy.

On behalf of the Board, Chair Zimpher expressed appreciation to Marcie Scholl for her preparation of the EEO Strategic Plan and Annual Reports.

- **We are interviewing 4 candidates for the Management Analyst Supervisor 2** position that will report to the Research and Training Section. Three interviews are complete; the 4th is scheduled for this afternoon. A battery of questions geared toward an individual who possesses a background in IT, research, and has management skills has been developed, with scoring attributed to the questions and best responses. CSA, as SERB's

State Employment Relations Board
Board Meeting Minutes
October 27, 2011
Page 14 of 14

official HR representative, will sit in the interview process as an observer and consultant if needed.

- **Procedure updates:** A three member panel of staff (Judith Knapp, Erin Conn, and Sheila Farthing) has volunteered to work with the Executive Director on updating all of the SERB/SPBR procedures for the entire agency. Many of the procedures are quite old, have morphed, and need updating to come into compliance with actual daily routines and changes with electronic systems in place. These new procedures, once completed, will be incorporated into a procedures manual which will be used for orientation and training of new staff and for the use and standardization of processes for existing staff.

WELCOME:

- **KENNETH F. HICKEY, JD**, joined the SERB staff effective Tuesday, October 25, 2011 as an Intermittent Mediator. Ken has a background rich in litigation, negotiations, mediations, fact finding and arbitrations. All of this is rounded out with his experience as a highly qualified professional attorney who has handled a wide range of cases, as well as a successful mediator, facilitator and legal adviser. He worked principally in the Washington, DC and Maryland area of the United States. He comes highly recommended by the Director of the Federal Mediation and Conciliation Service located in Washington, DC. He and his wife recently moved to Columbus. He is a welcome addition to our Mediation staff.

FORWARD LOOK FOR FUTURE TRAINING:

- **Developing Labor Law Conference** – 12/09/11 at the ODOT facility. To date there are 30 registrations, it is early, and it is anticipated that registrations will number close to 75 – 100.
- **SERB Academy** – 3/15/12 & 3/16/12. CLE's to be submitted to the Supreme Court before 12/14/11, more information to follow as this academy is finalized.
- **Fact Finders Conference** – scheduled for August 10, 2012.

IX. ADJOURNMENT:

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

Vote: BRUNDIGE: Yes SPADA: Yes ZIMPHER: Yes
Affirmed X Denied _____

The Board meeting adjourned at 10:28 a.m.

W. Craig Zimpher
/s/ _____

W. Craig Zimpher, Chair