State Employment Relations Board

Board Meeting Minutes
February 20, 2014

The State Employment Relations Board met on February 20, 2014, 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 Aaron A. Schmidt, and Board Member N. Eugene Brundige.

I. APPROVAL OF MINUTES FOR THE JANUARY 30, 2014 BOARD MEETING:

Board Member Brundige moved that the Board approve the minutes for the January 30, 2014 Board meeting. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 2013-MED-10-1350 AFSCME, Ohio Council 8, Local 1289 and The Hancock County Engineer

On October 4, 2013, the AFSCME, Ohio Council 8, Local 1289 filed a Notice to Negotiate for a new collective bargaining agreement representing Maintenance Mechanics, I, II and III; Highway Maintenance Workers II, III and IV; and Serviceman with the Hancock County Engineer.

On January 6, 2014, a Petition for Decertification Election was filed seeking to decertify the AFSCME, Ohio Council 8, Local 1289 as the exclusive representative for this bargaining unit in Case No(s). 2014-REP-01-0004.

On January 14, 2014, the Hancock County Engineer filed a Motion to Stay Negotiations pending the outcome of the above mentioned representation petition.

On January 22, 2014, AFSCME, Ohio Council 8, Local 1289 filed a Disclaimer of Interest in the representation matter #11, currently before the Board. As SERB treats a Disclaimer of Interest as a Motion To Revoke Certification, staff is recommending the Motion to Revoke Certification be granted and dismiss the Petition for Decertification Election as moot.

Vice Chair Schmidt moved that the Board deny the Motion to Stay Negotiations in Case No. 2013-MED-10-1350 as moot. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

2. Case 2013-MED-10-1503 United Steelworkers International Union, Local 2163-6 and City of Youngstown

On October 31, 2013, the United Steelworkers International Union, Local 2163-6 representing approximately 63 Service, Maintenance and Clerical employees filed a Notice to Negotiate for a new collective bargaining agreement with City of Youngstown.

On January 17, a Petition for Representation Election was filed seeking to decertify the United Steelworkers International Union, Local 2163-6 as the exclusive representative for this bargaining unit in Case No(s). 2014-REP-01-0013.

On January 22, 2014, the City of Youngstown filed a Motion to Stay Negotiations pending

the outcome of the above mentioned representation petition.

Board Member Brundige moved that the Board grant the Employer's Motion To Stay Negotiations in Case No. 2013-MED-10-1503 pending disposition of the representation matter in Case No. 2014-REP-01-0013. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

3. Case 2014-MED-01-0031 Ohio Patrolmen's Benevolent Association and Lake County Sheriff

On December 20, 2013, a Petition for Representation Election was filed seeking to decertify the Ohio Patrolmen's Benevolent Association as the exclusive representative for this bargaining unit in Case No(s). 2013-REP-12-0125.

On January 13, 2014, the Ohio Patrolmen's Benevolent Association representing approximately 28 Deputized Deputy Sheriffs, Court Officers, and Court Officer Corporals filed a Notice to Negotiate for a new collective bargaining agreement with the Lake County Sheriff.

On January 23, 2014, the Lake County Sheriff filed a Motion to Stay Negotiations pending the outcome of the above mentioned representation petition.

Vice Chair Schmidt moved that the Board grant the Employer's Motion To Stay Negotiations in Case No. 2014-MED-01-0031 pending disposition of the representation matter in Case No. 2013-REP-12-0125. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

4. Case 2013-MED-10-1420 Communications Workers of America and Village of Mingo Junction

On October 29, 2013, Communications Workers of America filed a Notice to Negotiate for a successor agreement with the Village of Mingo Junction. On December 13, 2013, the Village of Mingo Junction filed a letter requesting to Dismiss The Notice To Negotiate alleging that the Village of Mingo Junction is no longer a public employer subject to Revised Code Chapter 4117. The village population, according to the 2010 Federal Census, is 3,454. This is below the threshold of the 5,000 needed for jurisdiction of SERB pursuant to R.C.4117.01(B).

Board Member Brundige moved that the Board grant the Employer's Motion To Dismiss The Notice to Negotiate in Case No. 2013-MED-10-1420 as the employer falls below the population threshold of 5,000 needed for jurisdiction of SERB. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2013-REP-12-0123 Concord Township Firefighters, IAFF Local 3755 and Concord Township, Delaware County - Fire Department

The Employee Organization filed a Request for Recognition. The substantial evidence is sufficient, and no objections have been filed. The Employer has complied with the posting requirements.

Vice Chair Schmidt moved that the Board certify the Employee Organization as the exclusive representative of all employees in the relevant bargaining unit. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

2. Case 2013-REP-09-0092 Teamsters Local Union No. 957, General Truck Drivers, Warehousemen, Helpers, Sales and Service, and Casino Employees and Greene County Board of Commissioners, Greene County Services
(March 4, 2014 - March 17, 2014)

3. Case 2014-REP-01-0001 The Public Works, Public Utility and Grounds Employees Association and Ohio Council 8, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, Local 3238 and City of Delaware
(March 4, 2014 - March 17, 2014)

All parties have executed and filed the appropriate Consent Election Agreement seeking a mail-ballot election.

Board Member Brundige moved that the Board approve the Consent Election Agreements and direct mail-ballot elections to be conducted during the polling periods indicated. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

4. Case 2014-REP-01-0009 Fraternal Order of Police, Ohio Labor Council, Inc. and Hocking County Sheriff

5. Case 2014-REP-01-0010 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and its Chillicothe Local #14 and Chillicothe City School District Board of Education

6. Case 2014-REP-01-0011 Bazetta Township Fire Fighters Association, IAFF Local #3703 and Bazetta Township Board of Trustees, Trumbull County

7. Case 2014-REP-01-0014 Ohio Council 8, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO and City of Napoleon

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

Vice Chair Schmidt 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	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

8. Case 2013-REP-12-0127 Fraternal Order of Police, Ohio Labor Council, Inc. and City of St. Clairsville

The Employee Organization filed a Request for Recognition and an amended Request for Recognition. A conference call was conducted and the Employer provided additional documentation. The Employee Organization has now filed a Motion to Withdraw the requests.

Board Member Brundige moved that the Board grant the motion and dismiss without prejudice the Request for Recognition and the amended Request for Recognition. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

9. Cases 2013-REP-09-0082 Ohio Patrolmen's Benevolent Association and Trumbull County Sheriff

2013-REP-09-0084 Ohio Patrolmen's Benevolent Association and International Union, United Automobile, Aerospace & Agricultural Implement Workers of America - UAW, Local 112 and Trumbull County Sheriff

The Board previously consolidated these cases and an inquiry hearing was scheduled for January 29, 2014.

On January 6, 2014, the Rival Employee Organization filed a new Petition for Representation Election covering the same group of employees. On January 27, 2014, the investigator contacted the union representatives who both agreed that the Inquiry was no longer necessary and agreed to proceed with an election in Case No. 2014-REP-01-0003. The Rival Employee Organization has filed a request to withdraw the instant cases.

Vice Chair Schmidt moved that the Board construe the Rival Employee Organization's request as a motion to withdraw, grant the motion and dismiss without prejudice the Request for Recognition in Case No. 2013-REP-09-0082 and the Petition for Representation Election in Case No. 2013-REP-09-0084. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

10. Case 2013-REP-11-0114 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Hilliard City School District Board of Education

The Employee Organization filed a Petition for Clarification of Bargaining Unit. The Employer responded by filing a position statement opposing the clarification. A conference call was conducted. The Employee Organization has now filed a Notice of Withdrawal.

Board Member Brundige moved that the Board construe the Employee Organization's Notice of Withdrawal as a motion to dismiss, grant the motion, and dismiss without prejudice the Petition for Clarification of Bargaining Unit. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

11. Case 2014-REP-01-0004 Jason D. Plesec and Ohio Council 8, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO and Hancock County Engineer

12. Case 2014-REP-01-0006 Grant Koba-Nelson and Fraternal Order of Police, Ohio Labor Council, Inc. and Lorain County Sheriff

The Petitioners filed Petitions for Decertification Election. The Incumbent Employee Organizations filed a letter disclaiming interest and a Disclaimer of Interest respectively. The contracts expired December 31, 2013.

Vice Chair Schmidt moved that the Board construe the letter and Disclaimer of Interest as Motions to Revoke Certification, grant the motions, revoke the Employee Organizations' certifications, and dismiss the Petitions for Decertification Election as moot. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

13. Case 2013-REP-09-0075 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and Delaware County Sheriff

The Board conducted a mail-ballot election and the ballots were counted on January 22, 2014.

The results of the election are before the Board. The outcome was (1) determinative challenged ballot which was challenged because the return envelope did not contain the required signature. The Incumbent and Rival Employee Organizations both waived the challenged ballot. The Employer maintained the challenged ballot.

The Mail-Ballot Instructions and the return envelope clearly state that a ballot will not be

counted unless the corresponding envelope contains a signature. It appears appropriate that the challenged ballot not be opened and counted. Since there was no majority of ballots cast, directing a runoff mail-ballot election in which only the choices receiving the highest number and second highest number, appears appropriate.

Board Member Brundige moved that the Board find that the determinative challenged ballot should not be counted, issue a revised Tally of Ballots, and direct a runoff mail ballot election in which only the Fraternal Order of Police, Ohio Labor Council, Inc. and the Ohio Patrolmen's Benevolent Association shall appear on the ballot, to be conducted during a polling period to be determined by the Representation Section. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

14. Case 2013-REP-09-0088 Sam Williams and Fraternal Order of Police, Ohio Labor Council, Inc. and Guernsey County Sheriff

- There were 5 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- Fraternal Order of Police, Ohio Labor Council, Inc. received 2 votes
- No Representative received 3 votes and prevailed in this election.

Vice Chair Schmidt moved that the Board certify the election results and certify that the employees in the unit have chosen to have no exclusive representative for the purposes of collective bargaining. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

15. Case 2013-REP-09-0097 Fraternal Order of Police, Lodge 15 and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Brook Park

- There were 8 valid ballots cast
- There was 1 void ballot
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Lodge 15 received 2 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 6 votes and prevailed in this election.

16. Case 2013-REP-09-0096 Teamsters Local 507 affiliated with International Brotherhood of Teamsters and Laborers Local 1099 and City of Maple Heights

- There were 5 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 0 votes
- Laborers Local 1099 received 0 votes
- Teamsters Local 507 affiliated with International Brotherhood of Teamsters received 5 votes and prevailed in this election.

17. Case 2013-REP-03-0020 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and East Clinton Local School District

- There were 20 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 3 votes
- Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO received 17 votes and prevailed in this election.

18. Case 2013-REP-09-0094 AFSCME, Ohio Council 8, AFL-CIO and Ohio Patrolmen's Benevolent Association and Cuyahoga County

- There were 309 valid ballots cast
- There were 27 void ballots
- There were 10 challenged ballots
- No Representative received 5 votes
- AFSCME, Ohio Council 8, AFL-CIO received 67 votes
- Ohio Patrolmen's Benevolent Association received 237 votes and prevailed in this election.

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

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Cases 2013-ULP-07-0208 SERB v. City of Chillicothe
2013-ULP-08-0250

On July 26, 2013, and on August 23, 2013, the Fraternal Order of Police, Lodge 59 ("Charging Party") filed unfair labor practice charges against the City of Chillicothe ("Charged Party"), alleging that Charged Party violated Ohio Revised Code §§ 4117.11(A)(1), (A)(2), (A)(3), and (A)(4).

On November 14, 2013, the State Employment Relations Board ("the Board" or

"Complainant") found probable cause to believe that Charged Party had committed unfair labor practices, coordinated Case Nos. 2013-ULP-07-0208 and 2013-ULP-08-0250, authorized the issuance of complaints, and directed the matter to hearing. Subsequently, the Board issued complaints for the coordinated cases and the matter was scheduled for an evidentiary hearing.

On January 22, 2014, counsel for Complainant filed a motion to dismiss with a copy of the parties' settlement agreement, which resolved the disputes underlying the unfair labor practice charges in Case Nos. 2013-ULP-07-0208 and 2013-ULP-08-0250.

Vice Chair Schmidt moved that the Board grant the motion to dismiss and dismiss with prejudice the unfair labor practice charges and complaints in Case Nos. 2013-ULP-07-0208 and 2013-ULP-08-0250. (The Board retains jurisdiction over this matter for purposes of enforcing the parties' settlement agreement, pursuant to O.A.C. Rule 4117-7-06.) Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

2. Case 2013-ULP-08-0257 SERB v. Trumbull County Sheriff's Office

On August 29, 2013, the Ohio Patrolmen's Benevolent Association ("Charging Party") filed an unfair labor practice charge against the Trumbull County Sheriff's Office ("Charged Party"), alleging that Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5).

On October 24, 2013, the State Employment Relations Board ("the Board" or "Complainant") determined that probable cause existed to believe Charged Party had committed an unfair labor practice and directed the parties to participate in unfair labor practice mediation. If mediation proved unsuccessful, the Board authorized the issuance of a complaint and directed that the matter be set for an evidentiary hearing. On December 17, 2013, the Board issued a complaint and this case was scheduled for a prehearing.

On January 29, 2014, counsel for Complainant filed a motion to dismiss with a copy of the parties' settlement agreement, which resolved the disputes underlying the unfair labor practice charge in this case.

Board Member Brundige moved that the Board grant the motion to dismiss and dismiss the unfair labor practice charge and complaint in Case No. 2013-ULP-08-0257 with prejudice. (The Board retains jurisdiction over this matter for purposes of enforcing the parties' settlement agreement, pursuant to O.A.C. Rule 4117-7-06.) Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

3. Case 2013-MED-01-0024 Cleveland Metropolitan School District Board of Education and Service Employees International Union, District 1199, AFL-CIO

This case comes before the State Employment Relations Board ("Board" or "SERB") upon the Cleveland Metropolitan School District's ("CMSD" or "Employer") "Motion to Deem Fact

Finder's Recommendation Agreed Upon; Invalidate the Vote of SEIU District 1199, and Other Appropriate Relief."

On January 10, 2013, the Employer filed a Notice to Negotiate pursuant to Ohio Revised Code ("O.R.C.") § 4117.14 and Ohio Administrative Code ("O.A.C.") Rule 4117-9-02. The Employer properly served Service Employees International Union, District 1199, AFL-CIO ("SEIU District 1199" or "Union") with the Notice to Negotiate. The parties engaged in negotiations for a successor agreement but were unable to reach an agreement. The parties proceeded to fact finding and selected SERB Neutral Nels E. Nelson as the fact finder.

October 31, 2013, Mr. Nelson issued his fact-finding report. On November 7, 2013, the Employer filed its certification of fact-finding vote, wherein it accepted the October 31, 2013 Fact-Finding Report. On November 8, 2013, the Union filed its certification of fact-finding vote.

On November 18, 2013, the Employer filed a "Motion to Deem Fact Finder's Recommendation Agreed Upon; Invalidate the Vote of SEIU District 1199, and Other Appropriate Relief." On November 27, 2013, the Union filed a "Memorandum in Opposition to the Employer's Motion to Deem Fact Finder's Recommendation Agreed Upon; Invalidate the Vote of SEIU District 1199, and Other Appropriate Relief." On December 9, 2013, the Employer filed "District's Reply to Union's Memorandum in Opposition of District's Motion to Deem Fact Finder's Recommendation Agreed Upon; Invalidate the Vote of SEIU District 1199, and Other Appropriate Relief."

Pursuant to O.R.C. § 4117.14, O.A.C. Rule 4117-1-01, and O.A.C. Chapter 4117-9, SERB directed this matter to an inquiry based upon the allegations contained in the Employer's motion concerning the propriety of the election procedures established by SEIU District 1199 for the CMSD November 2013 fact finding vote.

On December 16, 2013, SERB's Office of General Counsel issued a Notice of Inquiry Date/Procedural Order, notifying the parties of the inquiry date and the issues to be addressed. Subsequently, the parties filed evidentiary motions. On January 8, 2014, SERB's Office of General Counsel issued a Procedural Order addressing those motions. The inquiry was held before SERB's staff attorney on January 14, 2014, at which time testimony and documentary evidence was presented. Subsequently, the parties filed post-inquiry briefs.

On January 30, 2014, SERB's staff attorney submitted an Inquiry Report and Recommendation to the Board, recommending that the Board: (1) find SEIU District 1199's election procedures violated O.R.C. § 4117.14(C)(6)(a) and O.A.C. Rule 4117-9-05 and (2) grant CMSD's November 18, 2013 motion and find the November 2013 fact-finding vote of SEIU District 1199's CMSD bargaining unit rejecting the October 31, 2013 Fact-Finding Report invalid and deem the October 31, 2013 Fact-Finding report agreed upon.

Vice Chair Schmidt moved that the Board adopt, in its entirety, the staff attorney's Inquiry Report and Recommendation in this matter, grant the Employer's November 18, 2013 motion and find that the November 2013 fact-finding vote of SEIU District 1199's CMSD bargaining unit rejecting the October 31, 2013 Fact-Finding Report invalid and deem the October 31, 2013 Fact-Finding Report agreed upon. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Chair Zimpher expressed his appreciation to the Staff Attorney for her diligence and thoroughness in preparing the Report and Recommendation in this case. Board Member Brundige agreed.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

4. Case 2012-ULP-11-0301 SERB v. City of Green

On November 28, 2012, the Green Firefighters Association, IAFF Local 2964 ("Union" or "Intervenor") filed an unfair labor practice charge against the City of Green ("City" or "Respondent"), alleging that the City violated Ohio Revised Code (O.R.C.) §§ 4117.11(A)(1) and (A)(5) by unilaterally reassigning bargaining-unit work to part-time non-bargaining unit employees. On January 31, 2013, the State Employment Relations Board ("SERB," "the Board," or "Complainant") determined that probable cause existed to believe that the City violated O.R.C. §§ 4117.11(A)(1) and (A)(5) when it unilaterally reassigned bargaining-unit work to part-time non-bargaining unit employees, authorized the issuance of a complaint, and directed the matter to hearing.

On March 25, 2013, a complaint was issued and the matter was set for an evidentiary hearing before an Administrative Law Judge. On April 30, 2013, the Union filed a motion to intervene, which was granted pursuant to Ohio Administrative Code Rule 4117-1-07. A hearing was held on June 28, 2013. Subsequently, the parties filed post-hearing briefs. On October 31, 2013, the Administrative Law Judge issued a Proposed Order, recommending that the Board find that the City violated O.R.C. §§ 4117.11(A)(1) and (A)(5) when it unilaterally reassigned bargaining-unit work to part-time non-bargaining unit employees. On November 22, 2013, the City filed exceptions to the Proposed Order. On December 2, 2013, Intervenor and Complainant's Counsel filed separate responses to the City's exceptions to the Proposed Order.

Board Member Brundige moved that the Board adopt the Findings of Fact and Conclusions of Law in the Proposed Order, finding that the City of Green violated O.R.C. §§ 4117.11(A)(1) and (A)(5) when it unilaterally reassigned bargaining-unit work to part-time non-bargaining unit employees and issue a cease and desist order to the City of Green to take the following action:

A. CEASE AND DESIST FROM:

(1) Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by unilaterally reassigning bargaining unit work to part-time non-bargaining unit personnel, and from otherwise violating O.R.C. § 4117.11(A)(1).

(2) Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by refusing to bargain collectively with the Union by unilaterally reassigning bargaining unit work to part-time non-bargaining unit personnel, in violation of O.R.C. § 4117.11(A)(5).

B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:

(1) Return to the *status quo ante* the bargaining unit work of the full-time firefighters in the City of Green Fire Division prior to October 1, 2012.

(2) Post for 60 days in all of the usual and normal posting locations where bargaining unit members represented by the Union work, the NOTICE TO EMPLOYEES furnished by the State Employment Relations Board stating that the City of Green shall cease and desist from the action set forth in paragraph (A) above.

(3) Notify the State Employment Relations Board in writing within twenty (20) calendar days from the date the order becomes final on the steps that have been taken to comply therewith.

Opinion to follow.

Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

5. Case 2013-ULP-08-0246 SERB v. Fairborn City School District Board of Education

On August 20, 2013 The Fairborn Education Association, OEA/NEA filed a charge against the Fairborn City School District Board of Education alleging violations of R.C. 4117.11(A)(1) and (5).

At the October 24th, 2013 meeting the State Employment Relations Board found probable cause to believe that the Charged Party had committed the unfair labor practices, authorized the issuance of a complaint and directed the matter to hearing.

On February 19, 2014, Counsel for the complainant and the Fairborn Education Association both filed a motion to dismiss stating the above matter has been resolved which obviates any further need to prosecute this complaint. The hearing had been set for February 19, 2014. The employee organization and the employer have reached agreement on a new collective bargaining agreement which includes a settlement provision withdrawing the above charge and complaint.

Vice Chair Schmidt moved that the Board grant the motion to dismiss and dismiss the unfair labor practice charge and complaint in Case No. 2013-ULP-08-0246 with prejudice. (The Board retains jurisdiction over this matter for purposes of enforcing the parties' settlement agreement, pursuant to O.A.C. Rule 4117-7-06.) Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2013-ULP-09-0275 Huron Education Association, OEA/NEA v. Huron City School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1), (3) and (5) by unilaterally removing the work of Media Specialist from the bargaining unit.

Information gathered during the investigation revealed the School Board's actions of reassigning bargaining-unit work to employees in another bargaining unit is a mandatory subject of bargaining and such actions appear to rise to the level of an (A)(5) violation and would be best addressed through a hearing. The Association did not provide sufficient information or documentation to support the (A)(1) and (3) allegations.

Board Member Brundige moved that the Board find probable cause to believe an unfair labor practice has been committed, order the parties immediately to ULP mediation for a period not to exceed 45 days, authorize the assigned mediator, after consultation with the parties, to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. If the mediation is unsuccessful, authorize the issuance of a complaint and refer the matter to hearing to determine whether the School Board violated Ohio Revised Code § 4117.11(A)(5), but not (1) or (3), by unilaterally removing the work of Media Specialist from the bargaining unit and reassigning the duties to non-bargaining-unit employees. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

2. Case 2013-ULP-09-0276 Huron Education Association, OEA/NEA v. Huron City School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1) and (5) by refusing to bargain concerning aspects of its standards-based evaluation policy.

Information gathered during the investigation revealed that the matter is prematurely filed. The parties' agreement does not expire until July 31, 2014, and currently there is no controversy or actual harm.

Vice Chair Schmidt moved that the Board dismiss the charge without prejudice as prematurely filed. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

3. Cases 2013-ULP-10-0313 Sebring Local School District Board of Education v. Sebring Local Education Association, OEA/NEA and Heidi Shepherd

2013-ULP-10-0314 Sebring Local School District Board of Education v. Sebring Local Education Association

These unfair labor practice charges alleged that the Association and Heidi Shepherd violated Ohio Revised Code §4117.11 (B)(3) by engaging in bad faith bargaining.

Information gathered during the investigation revealed that pursuant to the Board's investigation authority under Ohio Revised Code § 4117.12, information was requested in writing from the School Board on November 15, 2013, January 6, 2014 and on January 16, 2014. The School Board did not respond to the written requests for information.

Board Member Brundige moved that the Board dismiss these charges with prejudice because the School Board failed to pursue the matters. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

4. Case 2013-ULP-11-0330 Ohio Patrolmen's Benevolent Association and Jamie Tavano v. City of Kirtland

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (3) and (4) by retaliating against Jamie Tavano for engaging in protected activity.

Information gathered during the investigation revealed that the Association and Jamie Tavano established a prima facie case of discrimination by demonstrating that Mr. Tavano's participation in the investigation of the unfair labor practice charge appears to have resulted in his demotion to patrolman by the City. Therefore, the question of whether Mr. Tavano's written statement rises to the level of "testimony" should be addressed in a hearing.

Board Member Brundige moved an alternative recommendation that the Board sua sponte 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 Chair Schmidt seconded the motion. Chair Zimpher called for discussion.

Chair Zimpher read and submitted a prepared memo regarding this case that is to be placed into the case record. The content of the memo is as follows:

Ohio Patrolmen's Benevolent Association (OPBA) alleges that the City of Kirtland violated Ohio Revised Code §§ 4117.11(A)(1), (A)(3), and (A)(4) by retaliating against bargaining unit employee, Jamie Tavano, (Mr. Tavano). OPBA alleges that the City demoted Mr. Tavano from sergeant to patrolman for engaging in concerted activity. OPBA has filed a grievance regarding Mr. Tavano's demotion pursuant to the grievance-arbitration provisions contained in the parties' collective bargaining agreement (CBA).

Pursuant to In re Upper Arlington Ed Assn, SERB 92-010 (6-30-92), SERB has established a policy of deferring certain unfair labor practices to the grievance-arbitration procedure to

avoid duplicating forums and save resources of both the agency and the parties. Since the grievance filed by OPBA on Mr. Tavano's behalf will address the issue of whether Mr. Tavano's demotion was proper, this matter appears best addressed through the grievance-arbitration process. SERB will retain jurisdiction over this matter pending the outcome of the grievance-arbitration process. The parties shall be instructed to provide SERB with a copy of the arbitration award upon its issuance.

If a party wants SERB to review the arbitrator's award to determine whether the unfair labor practice issues were adequately resolved, the party must file a motion for review with SERB no later than 30 days after the award is issued. The motion should contain a statement of reasons why the charge should or should not be dismissed in view of the award. If a motion of review is not timely filed, the Board will assume the matter has been resolved and dismiss the unfair labor practice charge and complaint therein.

Chair Zimpher called for the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

5. Case 2013-ULP-11-0335 Cleveland Teachers Union, AFT Local 279, AFL-CIO v. Cleveland Metropolitan Schools Board of Education and Elizabeth Fennell

The unfair labor practice charge alleged that the School Board and Elizabeth Fennell violated Ohio Revised Code §4117.11 (A)(1) and (8) by denying bargaining-unit employees' requests for representation.

Information gathered during the investigation revealed that upon a review of the totality of the circumstances in each incident, none of the three (3) individuals were denied representation.

Vice Chair Schmidt 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 Union and Ms. Fennell. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

6. Case 2013-ULP-12-0366 Middletown Firefighters IAFF Local 336 v. City of Middletown

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(5) by refusing to bargain over the process of selecting time off.

The Investigator will hold the discussion in abeyance pending the outcome of the recommendation.

Board Member Brundige moved that the Board, without rendering any judgment on the merits, order the parties to pre-determination mediation for a period not to exceed 30 days with instructions to the mediator to report back to the Board at the conclusion of the mediation or the mediation period, whichever comes first, authorize the assigned mediator,

after consultation with the parties to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

7. Case 2013-ULP-10-0311 Karina M. Hahn v. Oregon City School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1), (3) and (4) by retaliating against her for filing Case No. 2013-ULP-08-0236.

Information gathered during the investigation revealed Karina Hahn did not provide sufficient information or documentation to show a nexus between the filing of the ULP charge and the written reprimand or the denial to change evaluators. Ms. Hahn also did not provide sufficient information or documentation to support the (A)(1) and (4) allegations.

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

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

8. Case 2013-ULP-10-0312 Karina M. Hahn v. Oregon City Federation of Teachers Local 1080 AFT, AFL-CIO

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(6) by failing to properly represent Karina Hahn.

Information gathered during the investigation revealed Ms. Hahn did not provide sufficient information or documentation to show how the Union's actions were arbitrary, discriminatory or in bad faith. The Union appears to have taken the basic and required steps in filing and processing Ms. Hahn's grievance.

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 the Union. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

9. Case 2013-ULP-11-0342 Liberty Center Classroom Teachers Association, OEA/NEA v. Liberty Center Local School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally creating the non-bargaining-unit position of Dean of

Student Activities and eliminating the bargaining-unit position of Athletic Director.

Information gathered during the investigation revealed that in this case, it must be determined whether ultimate impasse was reached prior to the School Board's creation of the non-bargaining-unit position of Dean of Student Activities, which appears to have overlapping duties with the bargaining-unit position of Athletic Director. This matter appears to be best addressed in a hearing.

Vice Chair Schmidt moved that the Board find probable cause to believe an unfair labor practice has been committed, order the parties immediately to ULP mediation for a period not to exceed 45 days, authorize the assigned mediator, after consultation with the parties, to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. If the mediation is unsuccessful, authorize the issuance of a complaint and refer the matter to hearing to determine whether the School Board violated Ohio Revised Code 4117.11(A)(5), but not (1) by unilaterally assigning bargaining-unit work to non-bargaining-unit employees. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

10. Case 2013-ULP-12-0346 Brian Chaffins v. Fraternal Order of Police, Ohio Labor Council, Inc.

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(6) by entering into a Memorandum of Understanding which benefited four (4) of the six (6) members on the negotiating team.

Information gathered during the investigation revealed that Brian Chaffins failed to present evidence to show that the Union's actions were arbitrary, discriminatory or in bad faith when it entered into the Memorandum of Understanding. In addition, the charge is untimely filed. Mr. Chaffins knew or should have known of the MOU when he filed his grievance on August 20, 2013, the charge should have been filed on or before November 18, 2013, but was not filed until December 4, 2013, 104 days after he knew or should have known of the alleged violations.

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 and for being untimely filed. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

11. Case 2013-ULP-12-0353 Felicia Bivins v. Erica Papp, Union Representative

The unfair labor practice charge alleged that Erica Papp violated Ohio Revised Code §4117.11 (B)(1), (2), (3), (4), (5), (6), (7) and (8) by giving a third party false information when she was accused of sexual harassment of another officer which could have resulted in her termination.

Information gathered during the investigation revealed that Felicia Bivins has failed to

provide sufficient information to show how Ms. Papp's actions were arbitrary, discriminatory or in bad faith. Therefore, Ms. Papp's actions do not appear to rise to the level of a statutory violation. Ms. Bivins did not provide sufficient information or documentation to support the (B)(1), (2), (3), (4), (5), (6), (7) and (8) allegations.

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

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

12. Case 2014-ULP-01-0003 Felicia Bivins v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(1), (2), (3), (4), (5), (6), (7), and (8) by failing to remove Union Representative, Erika Papp, from her union duties.

Information gathered during the investigation revealed that Felicia Bivins did not initiate any of the required internal union remedies available to her when she sought to have Officer Papp removed as a Union Representative. Ms. Bivins did not provide sufficient information or documentation to support the (B)(1), (2), (3), (4), (5), (6), (7) 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 the Union. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote:	BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
	Affirmed	X		Denied		

13. Case 2013-ULP-11-0323 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO & Its Local 233 v. Ashland City School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1) and (2) by interfering, restraining, coercing and discriminating against employees in the exercise of their guaranteed rights.

Information gathered during the investigation revealed that at the School Board's August 26, 2013 Board of Education meeting, a Board member stated that the union members would be fined by the union if they crossed the picket line and then stated that if any union member wished to cross the picket line and work during the strike, the union member would need to withdraw their union membership. As a result, some members requested to withdraw from the union. The School Board Member's actions appear to rise to an (A)(1) and (2) violation.

Vice Chair Schmidt moved that the Board find probable cause to believe an unfair labor practice has been committed, order the parties immediately to ULP mediation for a period not to exceed 45 days, authorize the assigned mediator, after consultation with the parties, to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. If the mediation is unsuccessful, authorize the issuance of a complaint and refer the matter to hearing to determine whether the School Board violated Ohio Revised Code § 4117.11(A)(1) and (2) by interfering, restraining, coercing and discriminating against employees in the exercise of their guaranteed rights. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

14. Case 2013-ULP-12-0360 Thomas Staup v. State of Ohio - Department of Rehabilitation and Correction - Toledo Correctional Institution

15. Case 2013-ULP-11-0343 Geneva Area Teachers' Association, OEA/NEA v. Geneva Area City School District Board of Education

16. Case 2013-ULP-12-0358 Wooster Employees Association v. City of Wooster

17. Case 2013-ULP-12-0357 Ashland Vocational Teachers Association, OEA/NEA v. Ashland County-West Holmes Joint Vocational School District Board of Education

Items 14 through and including 17 were withdrawn pursuant to a request or motion to withdraw.

Board Member Brundige moved that the Board construe the requests to withdraw as motions to withdraw and grant the motions with prejudice. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE:	Yes	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

VI. TABLED AND OTHER MATTERS:

There are no tabled matters.

VII. ADMINISTRATIVE MATTERS:

SERB REGULAR SCHEDULED MEETING DATES:

- March 13, 2014
- April 03, 2014
- May 01, 2014
- May 15, 2014
- June 05, 2014
- June 26, 2014
- July 24, 2014
- August 14, 2014

SYSTEM UPDATES:

- **Employee Organization Annual Report Filings:** For fiscal year ending 09/30/13 a total of 21 Employee Organizations were required to report not later than February 15, 2014. Of the 21 due, 3 organizations did not timely file, all other Employee Organizations have filed and are in compliance. The remaining 3 organizations are not yet 31 days overdue. We are tracking their compliance timeline. The Employee Organizations are:

ORG #	Organization Name	AR	FS	Extension Date:
1376	Conneaut Volunteer	2012-09-30	2013-09-30	n/a
943	CWA Local 4501	2013-09-30	2012-09-30	n/a
77	IAFF Local 1591	2012-09-30	2012-09-30	n/a

The items highlighted in yellow are outstanding.

- **Cost of Health Insurance in the Public Sector Survey update:** 1,327 surveys were sent out to Public Sector Employers on January 13. That is two (2) more surveys than last year. Currently, the rate of return at this early date is 25%. They are due back March 01, 2014.

- **2013 Financial Disclosure Filing Cycle Information:** Reminder for all public officials and employees of SERB that currently serve or served at any time during calendar year 2013 or 2014 who fall into the required category to be sure to file the 2013 financial disclosure statement on or before April 15, 2014. SERB pays the filing fee on behalf of its filers. Any questions regarding the Ohio Ethics Law may be directed to 1-614-466-7090. Please let me know when you have filed.

- **SERB Academy:** Spring academy being planned for 3/31/14 & 4/01/14 to coincide with the 30th Anniversary of SERB. Crown Plaza location. To date 38 reservations have been received.

- **SPBR Academy:** Spring academy being planned for 6/13/14. Crown Plaza location.

IX. ADJOURNMENT:

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

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

The Board meeting adjourned at 10:42 a.m.

/s/
W. Craig Zimpher, Chair